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THE VALUATION AND VALUERS REGISTRATION ACT, 2016

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NOTICE

This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

Dar es Salaam,
17th May, 2016

JOHN W. H. KIJAZI
Secretary to the Cabinet

BILL
for

An Act to provide for powers and functions of Chief Valuer of the Government; to establish the Valuers Registration Board; to provide for the functions and management of the Board; to provide for regulation and control of valuation profession and practice; and to provide for related matters.

PART I
PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Valuation and Valuers Registration Act, 2016 and shall come into operation on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Application

2. This Act shall apply in Tanzania Mainland.

Interpretation

3. In this Act, unless the context otherwise requires –
“association” means an association formed by persons practising valuation and allied practice;
“Assistant Chief Valuer” means a person appointed as

- Assistant Chief Valuer of the Government pursuant to section 8;
- “Authorized valuer” means a valuer authorized under section 10 to carry out valuation functions;
- “Board” means the Valuers Registration Board established under section 12;
- “certificate” means a practising certificate issued under this Act;
- “Chairman” means the Chairman of the Board and includes a Vice Chairman or a person appointed to act as such;
- “Chief Valuer” means the person appointed as Chief Valuer of the Government pursuant to section 5;
- “client” means a person who requests valuation to be carried out by a registered valuer under this Act;
- “comparable property” means a property that shares common features with the property under valuation;
- “Government valuer” means a valuer employed by the Government and who discharge duties pursuant to section 9;
- Cap. 113 “land” has the same meaning ascribed to it by the Land Act;
- “market value” means the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion;
- “Minister” means the Minister responsible for lands;
- “property” means interests, rights and benefits related to the ownership of physical land and improvements thereon, or movable assets;
- “registered valuer” means a person registered as valuer to carry out valuation under this Act;
- “Registrar” means a Registrar of the Board appointed pursuant to section 23;
- “technician valuer” means a person who is enlisted as technician valuer under this Act;
- “valuation” means a process in which the value of an

interest in property is assessed by the valuer;

“valuation practice” means a system where a valuer determines value of an interest in landed and non landed property, business, ownership or user rights;

“valuer” means a person who holds a degree or equivalent in valuation from a recognized university or institute.

PART II THE CHIEF VALUER

Chief Valuer

4. There shall be a Chief Valuer within the Ministry responsible for lands who shall be responsible for advising the Government on all matters relating to valuation practice and activities.

Appointment of Chief Valuer

5.-(1) The Chief Valuer shall be appointed by the President from amongst public servants.

(2) A person is qualified to be appointed as Chief Valuer if that person-

- (a) holds at least masters degree or equivalent qualification in valuation from a recognized institution;
- (b) have experience in the field of valuation for not less than ten years; and
- (c) is of a proven probity.

Powers and functions of Chief Valuer

6.-(1) The Chief Valuer shall be the principal advisor to the Government on all matters relating to valuation, and the Head of the Valuation Department within the Ministry, and shall have the following functions:

- (a) to advise the Government on valuation matters and activities, including valuation rates in purchase and dispose of Government properties;
- (b) to carry out valuation of properties or other assets upon request from the Government,

institutions, individuals and members of the public;

- (c) to carry out research and maintain a valuation data bank for the use by valuers and members of the public;
- (d) to prepare and maintain a data base on property transaction or related data relating to the Government;
- (e) to prepare and submit to the Minister, quarterly reports on valuation activities;
- (f) notify the Board or other relevant authority on any professional misconduct committed by a registered or enlisted valuer;
- (g) manage complaints arising out of Government valuation;
- (h) to carry out or cause to be carried out, oversee and approve or endorse all valuation reports prescribed under this Act; and
- (i) to perform any other function as may be assigned by the Minister.

(2) In performing functions under subsection (1), the Chief Valuer shall have powers to-

- (a) impose fees in respect of services rendered by Government valuers as may be prescribed by the Minister;
- (b) recommend to the relevant disciplinary authority, measures to be taken against Government valuer or enlisted valuer;
- (c) appoint or approve valuers for specific valuation assignment as may be required.

Verification of valuation report

7.-(1) Where the Chief Valuer is satisfied that the valuation was not properly conducted, he may-

- (a) disapprove the valuation report; or
- (b) visit the property which is a subject of valuation for the purpose of verification.

(2) Where, upon verification of the valuation under subsection (1), the Chief Valuer is satisfied that the valuation is not in compliance with valuation guidelines, he may-

- (a) recommend to the relevant disciplinary authority on measures to be taken against such registered valuer;
- (b) assign another registered valuer to conduct valuation on the property.

Appointment of
Assistants Chief
Valuer

8.-(1) There shall be such number of Assistants Chief Valuer who shall be appointed through recruitment procedures in terms of the Public Service Act, and who shall assist the Chief Valuer in the performance of his functions under this Act.

(2) A person is qualified to be appointed as an Assistant Chief Valuer if that person is a valuer who possesses qualification set out in section 5(2).

(3) An Assistant Chief Valuer shall be responsible to the Chief Valuer and shall perform functions as may be assigned to him by the Chief Valuer.

(4) Assistants Chief Valuer shall be located in such zonal offices or in any areas as the Chief Valuer may determine.

Government
valuers

9.-(1) There shall be Government valuers who shall be appointed or employed in accordance with the Public Service Act, and who shall undertake valuation functions in the public sectors in the Ministries, Departments, Government Institutions and local government authorities.

(2) The Government valuers shall practice valuation under directives and supervision of the Chief Valuer.

Authorized
valuers

10.-(1) For the better and effective carrying out his functions under this Act, the Chief Valuer may appoint any fully registered valuer to be an Authorized valuer.

(2) Authorized valuers shall be responsible for discharging functions in such Regions or Districts as the Chief Valuer may prescribe in the letter of appointment.

(3) In performing functions under this Act, an Authorized valuer shall be responsible to Assistant Chief

Valuer.

(4) An appointment of Authorized valuer under this section shall be published in the *Gazette*.

Power to
delegate

11.-(1) For purposes of effective carrying out of his functions under this Act, the Chief Valuer may delegate his functions to Assistant Chief Valuer or Authorized valuer appointed under this Act.

(2) Any such delegation may be made in respect of any particular matter or any class of matters or generally or may be limited to any part of Tanzania Mainland.

(3) Any delegation made under this section shall be revocable at will and shall not prevent the exercise or performance of any powers, duties or functions of the Chief Valuer.

PART III VALUERS REGISTRATION BOARD

Establishment of
the Board

12.-(1) There shall be established a Board to be known as the Valuers Registration Board.

(2) The Board shall be a body corporate with perpetual succession, common seal and in its name, be capable of -

- (a) suing and being sued;
- (b) acquiring, holding and disposing of real and personal property;
- (c) entering into any contract or other transaction, and doing or suffering to do all such other acts and things which a body corporate may lawfully do;
- (d) exercising the powers and performing the functions conferred to it under this Act.

(3) Notwithstanding subsection (2), the Attorney General shall have the right to intervene in any suit or matter instituted by or against the Board.

Cap. 5

(4) Where the Attorney General intervenes in any suit or matter the provisions of the Government Proceedings Act shall apply in relation to the proceedings

of that suit or matter as if the suit or matter had been instituted by or against the Government.

(5) For purposes of subsection (3), the Board shall have the duty to notify the Attorney General on any impending suit or matter by or against the Board.

(6) Procedure for the conduct of business by the Board shall be as stipulated in the First Schedule.

Composition of
the Board

13.-(1) The Board shall consist of not more than nine members appointed by the Minister as follows:

- (a) the Chairman,
- (b) a senior registered valuer from the Ministry responsible for land;
- (c) one registered valuer working with the local government nominated by the Ministry responsible for local government;
- (d) a representative of an association of valuers;
- (e) a representative of institutions of higher learning offering valuation profession training;
- (f) a representative of private valuation firms;
- (g) a Law Officer nominated by the Attorney General;
- (h) an accountant specialised in finance nominated by the Ministry responsible for finance; and
- (i) a land surveyor from the Ministry responsible for lands.

(2) Except for a member nominated under paragraphs (g), (h) and (i) of subsection (1), a person shall not be appointed to the Board unless the person is a valuer registered under this Act.

(3) Registrar shall be the Secretary to the Board.

(4) The Board may co-opt the Chief Valuer or any other person to assist the Board on deliberation of any issue or matter that requires the person's skills, expertise or advice, but the co-opted person shall have no right to vote in any meeting of the Board.

Functions of the
Board

14.- (1) The Board shall perform the following functions:

- (a) register valuers and enlist technician valuers

- under this Act;
- (b) issue certificate to persons qualified to practice valuation;
- (c) evaluate academic and practical qualification for the purposes of registration;
- (d) publish in the *Gazette* and a daily news paper of wide circulation in each year, a list containing the name, address and qualifications of all registered valuers on the Register;
- (e) exercise effective disciplinary control over the professional ethics and conduct of valuation practice;
- (f) promote and encourage educational advancement with regard to the practice of the valuation profession;
- (g) in matters relating to valuation practise, to receive and determine complains raised from Chief Valuer, practising valuers of the Government and general public;
- (h) consult with institutions that train valuers and associations with the view to ensuring adherence to rules of best practice;
- (i) organise courses, conferences, seminars, discussions and consultations on matters relating to valuation;
- (j) create enabling environment that facilitates professional advancement of Registered Valuers;
- (k) conduct regular Continuing Professional Education;
- (l) arrange for publication and dissemination of materials regarding the practice of valuation;
- (m) ensure that valuation practice is undertaken in conformity with laid down valuation standards;
- (n) conduct regular quality control of valuations carried out by practising valuers at a frequency determined by the Board, and take appropriate actions; and
- (o) to carry out such other functions as the Minister may direct.

- (2) In performing its functions under subsection (1), the Board shall-
- (a) instil confidence in the operations and management of the valuation profession;
 - (b) ensure that the operation of valuation practice is performed with uniform and by honest and competent persons;
 - (c) protect the interests of consumers of valuation services;
 - (d) enhance public knowledge, awareness and understanding of the valuation with particular reference to-
 - (i) the rights and obligations of consumers of and valuers as providers of valuation services;
 - (ii) the ways in which complaints and disputes may be resolved.

Committees of the Board

15.-(1) For purpose of effective carrying out its functions under this Act, the Board may form such number of committees.

(2) Without prejudice to subsection (1), the Committees shall include-

- (a) Technical Committee;
- (b) Continuing Professional Education and Examinations Committee;
- (c) Ethics and Disciplinary Committee;
- (d) Arbitration Committee; and
- (e) any other committee that the Board may appoint.

Power to delegate functions

16.-(1) The Board may delegate its functions under this Act to the Committee of the Board:

Provided that no such delegation shall be made by the Board on functions or duties relating to-

- (a) admission of applicants for registration;
 - (b) approval of annual budgets, work programmes or accounts;
 - (c) disciplinary measures of valuers.
- (2) Without prejudice to the provisions of sub-

section (1), the committee may co-opt members out of the Board for the purposes of discharge of its duties.

Power to
conduct
inquiries

17.-(1) The Board may, on its own motion or upon directives in writing by the Minister, conduct an inquiry on a specific subject matter prescribed by the Minister or where the Board considers it necessary or desirable for the purpose of carrying out its functions.

(2) The Minister may specify in a direction under subsection (1) time within which the Board shall submit its report on the inquiry and the Board shall submit its report to the Minister within that time.

(3) Where the inquiry is intended to involve the public, the Board shall issue notice of such inquiry in the *Gazette* and in a newspaper of wide circulation in Tanzania Mainland specifying the purpose of the inquiry, the time within which submission may be made to the Board, the form or manner in which submission shall be made, the subject matter of the inquiry and the source of such inquiry.

(4) For the purpose of the proceedings at any inquiry to be held by the Board-

- (a) the Chairman shall administer oaths in accordance with the provisions of the Oath and Statutory Declaration Act and in the name of the Board, issue summons under his hand directing the person named to attend at the time and place mentioned and give evidence or produce documents specified in the notice;
- (b) the Board shall have powers to make any such order as to payment by any party of any costs or witness expenses as it may think fit, and any such order shall be enforceable to the same extent and in the same manner as an order for costs made by the High Court;
- (c) subject to the preceding provisions of this section and to any rules made therein, the Board shall have power, at any inquiry by the Board to regulate its own procedure; and
- (d) the Board may direct the publication, in such

terms and manner as it may think fit, of a report of any inquiry held by the Board.

Secrecy

18. Except for the purposes of the performance of his functions, when so required by law or authorized by the Board or Chief Valuer, no member of the Board, staff of the Board or registered valuer shall disclose any information relating to valuation report in respect of a client acquired in the course of employment or the discharge of his duties.

Unfair
competition in
valuation
practice

19.-(1) The Board shall deal with all competition issues which may arise in the course of performance of valuation functions, and may investigate and report on such issues to the Fair Competition Commission or any other relevant authority in relation to-

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- (a) any contravention of the Fair Competition Act;
- (b) actual or potential competition in any market for services provided by Valuers; and
- (c) any detriment likely to result to the members of the public.

(2) The Board shall, in conducting investigation under this section, take into account-

- (a) whether the conditions for effective competition exist in relation to the provision of services by way of valuation work in the market;
- (b) whether any exercise by the Board of its powers is likely to cause any lessening of competition or additional costs in valuation and is likely to be detrimental to the public;
- (c) whether any such detriment to the public is likely to outweigh any benefits to the public resulting from the exercise of its powers by the Board.

The Valuation and Valuers Registration Act

Practice, ethics
and conduct

20. Every registered valuer or enlisted valuer shall have the obligation to conduct affairs of the profession with the highest degree of honesty, skill and integrity and shall be required to observe the code of conduct and ethics prescribed under this Act.

Investigation of
complaints

21.-(1) Where a complaint is lodged to the Board against any registered valuer or enlisted valuer, the Board may cause an investigation to be conducted into such complaint by a Disciplinary Committee of the Board.

(2) The Disciplinary Committee shall conduct a preliminary investigation in a manner it sees fit and submit to the Board the investigation report.

(3) The Disciplinary Committee may, in the process of investigation, invite any person to provide expertise as may be required.

Decision by the
Board

22.-(1) The Board may, upon receiving a report from the Disciplinary Committee-

(a) consider the report and determine the matter; or

(b) cause the inquiry to be conducted into the matter.

(2) The Board may make rules prescribing the conduct of investigation and inquiry under this Act.

Appointment
and functions of
Registrar

23.-(1) The Minister may, after consultation with a Board, appoint a fully registered valuer to be the Registrar.

(2) The Registrar shall be the Chief Executive Officer, and shall be responsible for the day to day management of activities of the Board.

(3) The Registrar shall hold office for a term of three years, and may, subject to his satisfactory performance, be eligible for reappointment for one further term of three years.

(4) Functions of the Registrar shall be to-

(a) effect registration of valuers and enlistment of technician valuers as approved and directed by the Board;

(b) prepare various reports and other documents

on valuation matters for deliberation by the Board;

- (c) arrange and keep minutes of the Board;
- (d) keep and maintain the Register under the directives of the Board;
- (e) effect suspension or cancellation of certificates issued to registered valuers and enlisted technicians as directed by the Board;
- (f) facilitate communication on behalf of the Board between the Board and valuers, Chief Valuers and other institutions;
- (g) issue valuation certificate after approval of the Board; and
- (h) perform other functions as may be from time to time specified by the Board.

(5) In performing functions under this Act, the Registrar shall be responsible to the Board.

Secretariat

24.-(1) There shall be the Secretariat of the Board composed of the Registrar and such number of staff appointed or employed on such terms as the Board shall direct.

(2) Staff appointed or employed under this Act shall be responsible to the Registrar and shall discharge such functions as the Registrar may determine.

PART IV REGISTRATION OF VALUERS

(a) General Requirements

Prohibition for practising as valuer without certificate

25.-(1) A person or firm shall not undertake any activity relating to valuation under this Act without a certificate issued by the Board.

(2) A person or firm who contravenes this section commits an offence and shall, upon conviction, be liable to-

- (a) in the case of an individual, a fine of not less than five million shillings and not exceeding twenty million shillings, or to imprisonment for

- a term of not less than two years but not exceeding five years, or both;
- (b) in the case of body corporate, a fine of not less than twenty million shillings.

Application and qualifications for registration of valuers

26.-(1) A person who wishes to be registered as a valuer under this Act shall apply to the Board in a prescribed form and upon payment of a prescribed fee.

(2) A person shall be eligible to be registered as valuer under this Act if the person-

- (a) is a holder of at least a first degree in real estate with specialization in valuation or equivalent from a university or institute recognized by the Board as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the practice of valuation, and;
- (b) has complied with such addition requirements relating to the acquisition of practical experience in valuation and any other additional requirements specified by the Board.

(3) A firm shall be eligible to be registered as a consulting firm if-

- (a) is incorporated as a body corporate under the Companies Act;
- (b) the person or principals of the firm are registered with the Board as registered valuers.

(4) The Board may require an applicant for registration under this section to satisfy the Board that his professional and general conduct renders him fit and proper person to be registered.

Cap. 212

(b) Categories of Valuers Registration

Categories of registration

27.-(1) Registration of valuers shall be based on the following categories:

- (a) full registration;
- (b) temporary registration;
- (c) provisional registration; and
- (d) any other additional category or categories as

the Board may prescribe.

(2) The Board may set additional qualification necessary for registration in each category.

Full registered
valuer

28. A person may be registered as a fully registered valuer after satisfying the Board that the person has-

- (a) met the conditions of registration prescribed under section 26(2);
- (b) three or more years of practical experience;
- (c) passed examinations conducted by the Board; and
- (d) is a citizen of Tanzania.

Temporary
registered valuer

29.-(1) A person may be registered as a temporarily registered valuer after satisfying the Board that the person-

- (a) is not citizen of Tanzania;
- (b) has met the conditions of registration prescribed under section 26(2);
- (c) intends to be employed in Tanzania as a valuer for purpose of carrying out a specific valuation assignment for a period not exceeding one year;
- (d) is of good standing and is fully registered valuer in a home country or in any prior country of practice.

(2) The Board may require an applicant for registration under this section to appear before it or produce documents relating to his education, work or employment, or other matter relevant to the application.

(3) The registration of a person under this section shall be valid only while the person is engaged on the specific assignment in question, or for the period specified by the Board, as the case may be, and on his ceasing to be so engaged or on the expiry of the period, his registration shall cease to have effect.

(4) A person registered under this section shall be considered as registered in relation to the duration of the specific assignment or the period specified by the Board

and to activities done in the course of such assignment.

Provisionally
registered valuer

30.- (1) A person shall be eligible for registration under this category if the person-

- (a) is the holder of a degree in valuation from a university or institute recognized by the relevant authority;
- (b) does not have practical experience that may qualify the person to be fully registered under this Act;
- (c) has complied with any additional requirements as may be specified by the Board.

(2) A person registered under this section shall work under supervision of a fully registered valuer or temporarily registered valuer for not less than three years, and shall not be allowed to endorse valuation report.

(c) Granting and Refusal of Application

Grant of
Practising
Certificate

31. Where the Board is satisfied that an applicant has met all requirements for registration under this Act and is qualified for registration, the Board shall, within sixty days from the date of receiving application, direct the Registrar to enter the particulars of the applicant in the Register and proceed to issue the successful applicant with a practising certificate.

Refusal of an
application

32.-(1) The Board may refuse an application if-

- (a) an application is defective in material particular;
- (b) the applicant has provided false or misleading information;
- (c) the applicant was convicted of any criminal offence relating to corruption, tax evasion or any other related offence and sentenced to imprisonment for a term of six months or more.

(2) Where the Board has refused an application, the Board shall within seven days from the date of its decision, notify the applicant in writing stating the reasons for such refusal.

Appeal to the
Minister

33.-(1) Any applicant who is not satisfied with the decision of the Board may, within twenty one days from the date receiving notification under section 32(2), appeal to the Minister.

(2) On receipt of the appeal, the Minister shall, within thirty days consider and determine the appeal.

(3) In determining the appeal the Minister may-

(a) uphold, quash or vary the decision of the Board;

(b) require the Board to revise or review its decision;

(c) require the Board to inquire into specific information from the appellant and make further consideration of the application.

(4) Where the Minister upholds, quashes or varies the decision of the Board, shall give reasons for the decision.

Validity of
practising
certificate

34.-(1) Every practising certificate shall bear the date on which it is issued and shall have effect from that date.

(2) The practising certificate shall be valid for one year and may be renewed upon payment of prescribed fees and fulfilment of such other requirements as may be prescribed by the Board.

(3) The Registrar shall cause to be published in the *Gazette* and a newspaper of wide circulation, the name and address of a valuer in respect of whom a certificate has been issued.

Renewal of
certificate

35.-(1) The holder of a certificate granted under this Part may apply to the Board for renewal.

(2) On receipt of an application under subsection (1), the Board may renew the certificate upon-

(a) payment of renewal fee; and

(b) fulfillment of such terms and conditions applicable for grant of certificate.

(d) *Rights, Privileges, Designation of valuers and Enlistment*

Rights and
privileges of
registered
valuers

36. A registered valuer who is granted a practising certificate shall be entitled to practice valuation for gain, demand, sue for and recover in any court charges for any valuation service rendered or supplied by him.

Designation
upon
registration

37.-(1) Every professional valuer shall, so long as the validity of his registration subsists, be entitled to be addressed as, and to adopt and use the style and title-

- (a) in the case of a registered valuer registered under section 28 “Fully Registered Valuer”;
- (b) in the case of a registered valuer registered under section 29, “Temporarily Registered Valuer”; and
- (c) in the case of a registered valuer registered under section 30, “Provisionally Registered Valuer”;

or such other style and title as the Board may approve.

(2) A person shall not be allowed to take or use any title or description other than that of registration.

Enlisting of
valuers

38.-(1) Subject to this Act, a person shall not offer assistance in inspection, carrying out valuation or preparation of valuation report unless the person has been enlisted by the Board.

(2) A person is qualified to be enlisted under this section if the person has-

- (a) a diploma or certificate in real estate with specialization in valuation from a recognized institution;
- (b) complied with any additional requirements as the Board may determine.

(3) Upon enlisting of a valuer and payment of the prescribed fees, the Registrar shall issue a certificate of enlisting in the prescribed form.

(4) The Registrar shall cause to be published in the *Gazette*, as soon as practicable after enlisting, the particulars entered in the list in respect of each person and, subject to the directions of the Board, any amendment or

revocation of the particular in the list.

(5) Every enlisted valuer shall, so long as validity of his enlistment subsists, be entitled to be addressed as, and adopt the style and title of “Technician Valuer”.

(e) Register

Register

39.-(1) The Registrar shall keep and maintain the Register of all registered valuers and firms in accordance with the provisions of this Act and directives of the Board.

(2) The Register for valuers shall contain the following entries—

- (a) registration numbers;
- (b) the name and postal address of the Registered Valuer;
- (c) the qualifications of the Registered Valuer;
- (d) the date of the entry in the Register;
- (e) the category in which the Registered Valuer is registered;
- (f) duration of registration where applicable; and
- (g) any other information as may be prescribed by the Registrar.

(3) The register for firms shall contain-

- (a) name of the firm;
- (b) date of entry;
- (c) registration number;
- (d) postal and physical address;
- (e) date and number of certificate of incorporation; and
- (f) any other additional information as the Board may prescribe.

Publication of list of registered valuers

40. The Registrar shall annually, publish in the *Gazette* and a newspaper of wide circulation, a list of all registered and enlisted valuers appearing in the Register.

Inspection of the Register

41. The Register shall be a public document and any person may inspect the Register and obtain from the Registrar a copy, an extract or any document from the Register upon payment of a prescribed fee.

Registration of documents received in evidence

42.-(1) The Registrar's records, lists, copies, or extracts which have been duly certified by the Registrar shall be received as public documents in all courts, tribunals or other bodies authorized to receive evidence of the facts stated therein.

(2) In any legal proceedings to which a registered valuer is not a party, the Registrar shall not be compelled to-

- (a) produce the Register or any document if its contents may be proved under subsection (1); or
- (b) appear as a witness to prove any entry in the Register, the matters recorded in the Register or any document, unless for special cause or orders.

(f) Suspension, Cancellation and Publication of Certificates

Suspension of certificate

43. The Board may administer, caution, censure or order suspension of practising certificate of any registered valuer who after due inquiry by the Board-

- (a) is found guilty of professional misconduct;
- (b) has failed to meet conditions for continuing professional education as prescribed by the Board; or
- (c) has failed to comply with terms and conditions of the certificate.

Cancellation of practising certificate

44.-(1) The Board may cancel registration certificate of a valuer if the valuer-

- (a) has requested his name to be removed from the Register;
- (b) has completed a valuation assignment for which temporary registration was requested;
- (c) is convicted of a criminal offence, relating to corruption, tax evasion or any other related offence and sentenced to imprisonment for a term of six months or more;

- (d) is declared bankrupt by a court of competent jurisdiction or under any written laws;
- (e) has committed gross professional misconduct as determined by the Board;
- (f) is, subject to medical recommendation, incapable to continue practising valuation; or
- (g) is dead.

(2) Except where the registered person is dead or has requested his certificate to be cancelled, a certificate shall not be cancelled unless thirty days notice issued by Registrar is served to the registered valuer to show cause as to why his certificate should not be cancelled.

(3) Cancellation of the practising certificate shall be *prima facie* evidence that such valuer is no longer registered.

(4) A valuer who is aggrieved with the decision of the Board to suspend or cancel certificate may, within thirty days from the date of such decision, appeal to the Minister who shall determine the appeal within thirty days.

Publication of suspension or cancellation of certificate

45.-(1) Where a practising certificate of a registered valuer has been suspended or cancelled, the Registrar shall cause a note of the suspension or cancellation to be entered against the name of the registered valuer in the Register and be published in *Gazette*.

(2) Where the suspension or cancellation is lifted, the Registrar shall cause a note of lifting the suspension or cancellation to be entered against the name of the registered valuer on the Register and be published in *Gazette*.

Publication as evidence of holding practising certificate

46.-(1) Any list published in the *Gazette* by the Registrar containing names of registered valuers who have certificates for the current year shall, until the contrary is proved, be evidence that the persons named in the list as registered valuers hold the certificate for that current year.

(2) The absence from any such list of the name of any person shall, until the contrary is proved, be evidence

that, that person is not a registered valuer for that current year, but in the case of any such person an extract from the Register certified as correct by the Registrar shall be evidence of the facts appearing in the extract.

PART V
GUIDANCE ON VALUATION PRACTICE

Guidance on
valuation
practice

47. Every registered valuer or person practising valuation shall comply with guidance on valuation practice set out under this Part and regulations made under this Act.

Types of
valuation

48. For the purposes of this Act, valuations are categorized into-

- (a) statutory valuation, which is governed by a specific law, or whose instructions or procedures are a result of a legal requirement;
- (b) non-statutory valuation, which arises out of market demands or specific requirements and are not governed by any law.

Purposes of
valuation

49.-(1) Every registered valuer shall, in accordance with instructions received, indicate in a valuation report the purposes for which a valuation is required.

(2) The carrying out of valuation shall be for the following purposes:

- (a) rating;
- (b) compensation;
- (c) land rent assessment;
- (d) probate and administration;
- (e) capital gains tax;
- (f) sale or purchase;
- (g) mortgage;
- (h) rental value assessment;
- (i) financial reporting;
- (j) insurance;
- (k) investment;
- (l) stock market floatation;
- (m) market value;

- (n) bail; and
- (o) any other purpose that the Board may prescribe.

Basis of Valuation

50.-(1) In the course of undertaking valuation and preparation of valuation report, a registered valuer shall state the basis and method of valuation adopted and all assumptions used in arriving at values.

(2) For purposes of this section, bases of valuation includes-

- (a) market;
- (b) cost; and
- (c) income.

(3) Where the registered valuer relies on any additional assumption, whether basing on his own opinion or on the instructions of his client, the valuer shall state in writing such additional assumptions and reasons thereof.

Methods of valuation

51.-(1) In the valuation process, a registered valuer shall apply the appropriate method of valuation and shall include-

- (a) direct market comparative method;
- (b) replacement cost or contractors test method;
- (c) income approach or investment method;
- (d) profit method; and
- (e) residual method.

(2) Notwithstanding subsection (1) when other methods or variations are applied, the methods shall be explained and data used in the valuation shall be substantiated.

Validity of valuation

52. Valuation and valuation report prepared under this Act shall be valid for such period as the Minister may prescribe.

Cut off date and limitation period

53.-(1) The Minister may prescribe cut off date and the period of limitation in relation to any proceeding that relates to valuation conducted under this Act.

(2) For the purpose of this section “cut off date” means the date of the commencement of valuation.

Best practice
guidelines

54. Upon recommendation of the Board, the Minister shall, within six months after the coming into operation of this Act, prepare and publish in the *Gazette* guidelines prescribing best practice in valuation.

Access to land,
buildings, *etc*

55.-(1) A registered valuer may:

- (a) when necessary for the purposes of carrying out his functions under this Act, enter into and upon any land, building or premise at all reasonable hours and inspect the same without liability for trespass;
- (b) put either verbally or in writing to the owner or his agent or the person in occupation or in charge of that land, building or premise, any relevant question to enable him to perform his functions under this Act professionally; or
- (c) inspect any document from any person for the purpose of carrying out his functions under this Act.

(2) Any person who, after being informed of the intention of the registered valuer in desiring to enter and inspect the land, building or premises, or in putting the questions or in seeking to inspect such documents relevant to the performance of his functions under this Act-

- (a) refuses or fails to allow such entry or inspection;
- (b) refuses or willfully omits to answer to the best of his knowledge or belief any such question either verbally or in writing as the questioner may have requested;
- (c) willfully makes any false statement in reply to that question; or
- (d) refuses to allow such books, documents or papers to be inspected or extracts taken there from,

commits an offence and shall, upon conviction, be liable to a fine of not less than one million shillings but not exceeding three million shillings or imprisonment for a term of not less than twelve months but not exceeding

twenty four months or both such fine and imprisonment.

Submission of
relevant
information

56.-(1) The registered valuer may require the submission to him by any person of any relevant information necessary for the carrying out of his functions under this Act.

(2) The information required under subsection (1) may include-

- (a) details of sales, purchases, results of auctions and tenders, lettings and leases; and
- (b) such other information as the registered valuer thinks necessary for the carrying out of his functions under this Act.

(3) Any person who refuses to submit the information under this section within the prescribed period or willfully supplies any false information, commits an offence and shall, upon conviction, be liable to a fine of not less than one million shillings but not exceeding three million shillings or imprisonment for a term not less than twelve months but not exceeding twenty four months or to both such fine and imprisonment.

Valuer not to act
as agent for
unregistered
valuer

57. A registered valuer who acts as agent in any matter in a valuation for any unregistered person, and who-

- (a) permits his name, to be used by any unregistered valuer;
- (b) does any other act enabling an unqualified person to appear, act or practise in any respect as a registered valuer;
- (c) in any way assists any unregistered valuer in any cause or matter in which he knows that such person is contravening or intends to contravene this Act,

commits an offence and shall be liable to disciplinary actions as the Board shall determine.

PART VI
FINANCIAL PROVISIONS

Sources of funds

58. (1) Sources of the funds of the Board shall consist of -

- (a) any sums which may be provided for the Board by the Parliament;
- (b) any sums which the Board may receive by way of grant from any organization;
- (c) any sums which the Board may, from time to time, borrow for the purposes of the Board;
- (d) any sums which shall, in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions;
- (e) subscriptions from practising valuers as may be determined by the Board.

(2) The Board may, after obtaining approval of the Minister and in consultation with the Minister responsible for finance, invest any monies in such a manner as it considers fit.

Accounts

59.-(1) The Board shall keep proper books of accounts.

(2) Subject to any directions given by the Board, the Registrar shall prepare in respect of each financial year, and not later than three months after the close of the financial year, a statement which shall include a report on the performance of the Board during that financial year.

(3) The statement prepared under subsection (2) shall comprise of-

- (a) statement of financial performance;
- (b) statement of financial position;
- (c) statement of cash flows;
- (d) statement of changes of equity; and
- (e) notes to the financial statements.

Audit

60.-(1) The accounts of the Board shall, in respect of each financial year, be audited by the Controller and Auditor-General or by an Auditor appointed by the Controller and Auditor-General.

(2) The Board shall, within three months after the close of each financial year, submit to the Controller and Auditor-General for auditing the statement of accounts described in section 57 of this Act.

(3) The Board shall, as soon as practicable but not later than two months after receiving the audited report from the Controller and Auditor General, submit to the Minister the audited financial statements and a report of the Controller and Auditor General on such statements.

Annual performance report

61. The Board shall prepare and submit to the Minister within four months after the close of each financial year, the annual report on the performance of the Board during that financial year, and the Minister shall cause a copy of the report to be laid in the National Assembly.

PART VII GENERAL PROVISIONS

Restriction on the use of title and practice by unregistered valuers

62.-(1) Any person who, not being a registered or enlisted under this Act -

- (a) practises as a registered or enlisted valuer;
- (b) uses the style or title “Registered Valuer”, “Enlisted Valuer” or any other name, style, title or description implying that such person is a registered or enlisted valuer; or
- (c) holds himself out, whether directly or by implication, to be a registered or enlisted valuer;

commits an offence and shall, upon conviction, be liable to a fine not exceeding shillings five million or to imprisonment for a term not exceeding two years or both.

- (2) Subsection (1)(a) shall not apply to-
- (a) any public officer preparing reports in the course of his employment; or
- (b) any person employed by a registered valuer and acting within the scope of that employment.

Certification of valuation report

63.-(1) A registered valuer when carrying out valuation shall endorse a seal in the valuation report bearing his name, registration number, address and date, or the firm, of which he is a partner or director.

(2) Where the valuation report is not endorsed in accordance with subsection (1), that report shall be void.

Valuation fees

64.-(1) The Board shall, within one year of coming into operation of this Act, make regulations to provide for valuation fees in respect of valuation services rendered by registered valuers in the private sector.

(2) A registered valuer shall not charge or accept payment of fee or other consideration in respect of valuation services which is less than that prescribed under sub-section (1).

Infringement by bodies corporate

65. Where an act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified or recognized by law as qualified, to act as a registered valuer while it is not, the body corporate commits an offence and shall be liable on conviction to a fine not exceeding fifty million shillings.

Preparation of Code of Ethics

66.- (1) For the purpose of carrying out valuation with probity or in order to adhere with rules of best practice in valuation, the Board shall, within twelve months of coming into operation of this Act, prepare Code of Ethics for registered and enlisted valuers.

(2) The Code of Ethics prepared under this section shall be published in the *Gazette* and shall have a legal effect.

Offences

67. A person who:

- (a) fraudulently makes, causes or permits to be made, any false or incorrect entry in the Register or any copy of it;
- (b) fraudulently procures or attempts to procure the entry on the Register of any name or other particulars whether on his own behalf or on behalf of any other person;
- (c) fraudulently procures or attempts to procure a practising certificate;
- (d) knowingly being unqualified to conduct valuation, attempts to carry out valuation under this Act or conduct valuation;
- (e) knowingly makes any statement which is false in a material particular or misleading, with a view to gaining any advantage, concession or privilege under this Act;
- (f) forges or, knowing it to be forged, utters any document purporting to be a certificate, receipt, approval or other document issued in terms of this Act;
- (g) impersonates any person registered or deemed to be registered in terms of this Act;
- (h) refuses or failing without lawful cause to appear, having been duly summoned to appear, at an inquiry by the Board under this Act;
- (i) obstructs or hinders a member of the Board or of the Disciplinary Committee or of any other Committee of the Board in the exercise of his powers or the performance of his functions under this Act,

commits criminal offence upon conviction shall be liable to a fine of not less than five million shillings or imprisonment for a term of not less than two years or both such fine and imprisonment.

Negligence by
registered valuer

68. Any registered valuer whose report contains any overestimated or underestimated material particular or information obtained in the course of valuation, and as the result such report is approved or endorsed by the Chief

Valuer, shall be personally liable for professional negligence arising from such overestimation or underestimation of particulars or information.

Immunity

69. No matter or thing done by any member of the Board or committee, staff of the Board, registered valuer or enlisted valuer or any other person empowered to perform any function under this Act shall, if done in good faith in execution or purported execution of his function under this Act, render the member or such other person liable for matter or thing done.

Regulations

70.-(1) The Minister may, after consultation with the Board, make regulations for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), the Minister may make regulations prescribing for-

- (a) procedure for registration and enlistment under this Act;
- (b) procedure for registration of valuation firms under this Act;
- (c) fees and other charges to be paid or charged in respect of valuation services rendered by Government valuers under this Act;
- (d) procedure for verification of valuation under this Act;
- (e) the manner of assessing crop rates and preparation of crop schedule;
- (f) the manner of assessing crop rates and preparation of land values;
- (g) the prescribed forms to be used in carrying out different valuations;
- (h) procedure for conducting compensation, valuation and other types of valuations;
- (i) manner of assessing compensable items;
- (j) best practice rules, including guidelines on registered valuers standard of care and skill;
- (k) the manner and procedure for management of complaints and appeals under this Act;

- (l) code of measurement;
- (m) any other matter in furtherance to the objects of this Act.

Rules

71. The Board may make rules prescribing for-

- (a) valuation standards and guidelines;
- (b) format of valuation report;
- (c) matters relating to registration of valuers;
- (d) matters relating to continuing education; and
- (e) any other matter or thing as the Board considers necessary in furtherance to provisions of this Act.

Savings and transition

72.-(1) A valuer who is registered under the Professional Surveyors (Registration) Act and whose practising licence is valid shall continue to practise valuation as if registered under this Act until such licence expires.

Cap. 270

(2) A registered valuer whose practising licence was issued under the Profession Surveyors (Registration) Act shall, within three months before expiry of practising license, apply to the Board for registration under this Act.

(3) After the commencement of this Act a valuer shall not be registered under the Professional Surveyors (Registration) Act.

Amendment of other written related laws

73. For the purpose of bringing the laws into conformity with this Act, the laws as specified in the Second Schedule to this Act are hereby amended in the manner indicated in the Second Schedule.

FIRST SCHEDULE

(Made under section 12(6))

PROCEDURE OF THE BOARD

Vacancy

1.-(1) The office of a member shall become vacant if-

- (a) his appointment is revoked; or

- (b) he resigns; or
- (c) he dies.

(2) A member may resign by giving notice in writing to the Minister, and from the date specified in the notice, or if no date is specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

Vice-Chairman

2. The members shall elect one amongst their number to be Vice-Chairman of the Board, and any member elected as Vice-Chairman, may subject to his continuing to be a member, hold office for a term of three years from the date of his election and shall be eligible for re-election.

Tenure of office of members

3. (1) A member shall hold office for such period as may be specified in the instrument of his appointment or if no such period is specified, for a period of three years from the date of his appointment and shall be eligible for reappointment for the period of not more than two terms.

(2) A person who is a member by virtue of his holding some other office shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.

Termination of appointment

4. Where any member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such a member and appoint a new member in his place.

Casual vacancy

5. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

Cessation of membership

6. Where any member of the Board ceases to be such a member by resignation or death or is unable to

perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 2, the appointing authority may appoint another member in his place and the member so appointed shall, subject to the provisions of this Schedule, hold office for the remaining of the term of his predecessor.

Power of
Chairman and
Vice-
Chairman

7.-(1) The Chairman shall preside at all meetings of the Board.

(2) Where at any meeting of the Board the Chairman is absent the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and Vice-Chairman at any meeting of the Board, the members presents may, from amongst their number elect a temporary Chairman who shall preside at that meeting.

(4) The Chairman, Vice-Chairman or temporary Chairman presiding at any meeting of the Board shall have a right to vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

Meeting and
procedure of
the Board

8.-(1) An ordinary meeting of the Board, shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting.

(2) The Board shall ordinarily meet four times in a year, but the Chairman may convene an extraordinary meeting when the need to do so arises.

(3) The Chairman of the Board may invite any person who is not a member to participate in the deliberations of the Board, and any such person shall not be entitled to vote.

Quorum

9. The quorum at any meeting of the Board shall be two thirds of the members.

The Valuation and Valuers Registration Act

Decision by circulation of papers

10.-(1) Notwithstanding the provision of paragraph 7, where the Chairman so directs a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views.

(2) A member shall be entitled to require that any such decision be differed and such matter be considered at a meeting of the Board.

Minutes of Meetings

11.-(1) The Board shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies and defects not to invalidate proceedings

12. The validity of any act or proceedings of the Board shall not be affected by any vacancy among its member or by any defect proceeding in the appointment of any of them.

Orders, Directions, etc. of Board

13. All orders, directions, notices or other documents made or issued on behalf of the Board shall be signed by-

- (a) the Chairman or Vice-Chairman, as the case may be; and
- (b) the Registrar.

Proof of the Documents

14. Any document purporting to be under the hand of the Chairman, Vice-Chairman or the Registrar as to any resolution of the Board or as having been issued on behalf of the Board, shall be receivable in all courts or tribunals or other bodies authorized to receive evidence and shall, unless the contrary is shown, be deemed, without further proof, to be sufficient evidence of what is contained in the document.

Authentication of the Seal	15. The Seal of the Board shall not be affixed to any deed, document and other instruments except in the presence of the Chairman and the Registrar, or either the Chairman or the Registrar and one other member of the Board as the Board may appoint in that behalf.
Remuneration of members of the Board	16. A member of the Board and the Secretariat shall be entitled to such remuneration or allowances from the funds of the Board as the Minister may, after consultation with the Treasury Registrar, determine.
Execution of document	17. All documents to which the Board is a party other than documents required by law to be under seal and all decisions of the Board, may be signified under the hand of the Registrar or other officer authorized by the Registrar in that behalf.
Board may regulate proceedings.	18. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

SECOND SCHEDULE

(Made under section 73)

CONSEQUENTIAL AMENDMENTS

The laws set forth are hereby amended in the manner specified herein below.

Amendment of Cap. 270	1. The Professional Surveyor (Registration) Act is amended- (a) generally by deleting the term “and land economy” wherever it appears in the Act; (b) in section 3, by deleting the interpretation of the word “professional surveyor” and substituting for it
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the following:

““professional surveyor” means a person trained, qualified or possessing adequate skill and experience to enable him to practice the art of studying in detail, and applying precise measurements and other data, to a portion of the surface of the earth and determining, by linear measurements, its form, extent, contour surface and situation for the purposes of-

- (a) delineating property boundaries and compiling data for the registration of title to land;
- (b) providing control systems for mapping;
- (c) portraying on a map the physical features of the earth or a part thereof;
- (d) producing data for plans required for construction activities; or
- (e) portraying statistical and other data on specialist maps, and includes an appraiser, an assessor and a land economist;”

Amendment of Cap. 113 **2.** The Land Act is amended generally by deleting the term “qualified valuer” wherever it appears in the Act and substituting for it the term “registered valuer”.

Amendment of Cap. 289 **3.** The Urban Authorities (Rating) Act is amended-

- (a) generally by deleting the term “valuation surveyor” wherever it appears in the Act and substituting for it the term “registered valuer”; and
- (b) in section 3, by deleting the interpretation of the term “valuation surveyor”

OBJECTS AND REASONS

This Bill proposes the enactment of the Valuation and Valuers Registration Act, 2016 for purposes of regulating the valuation profession and practice in Tanzania Mainland. This is due to the fact that, for almost three decades the valuation activities have been undertaken under the auspices of various legislation including the Land Act, Cap. 113, the Urban Authorities (Rating) Act, Cap. 289, the Land Acquisition Act, Cap. 118, the Mining Act Cap. 123, the Income Tax Act, Cap. 332 and the Professional Surveyors (Registration) Act, Cap. 270.

This lack of one comprehensive and self contained legislation covering the valuation practices in the country has culminated into serious challenges within the societies. Some of these challenges include the escalation of land use disputes throughout the country caused by unscrupulous and unethical valuers; the increasing number of unqualified valuers who have been undertaking valuation assignments and activities without possessing requisite academic qualifications. All these have cascaded into causing delays in effecting compensation, the soaring of the relevant compensation, production costs of the relevant project and delay in undertaking the particular project or investment.

Thus, the Bill seeks to introduce a comprehensive legal framework that will fill the gap and work as an antidote in eliminating the preceding challenges and ensuring that land use in the country brings about positive impact in the welfare of individual users as well as the nation in general.

For purposes of appreciating the intended objectives, the Bill is divided into Seven Parts.

Part I of the Bill deals with preliminary provisions including the name of the proposed Act, its application as well as interpretation of various words and phrases that have been invariably used throughout the Bill.

Part II proposes powers and functions of Chief Valuer within the set up of the Ministry responsible for lands. It further provides for the appointment of the Chief Valuer, Assistants Chief Valuer, Government

Valuers as well as Authorized valuers. The proposed set up of the Valuation Department is to the effect that Assistants Chief Valuer will be posted in zonal offices as supervisors of valuation activities undertaken by Government valuers and authorized valuers in local government authorities, Regions and Districts.

Part III proposes provisions for the Valuers Registration Board, whereby matters relating to the establishment of the Board, composition, powers as well as functions of the Board are well spelt out. Moreover, this Part provides for the appointment of the Registrar who shall be responsible for the day to day activities of the Board.

Part IV of the Bill deals with Registration of Valuers, Firms and Enlistment of valuers. In this Part, it is proposed that the registration of valuers be limited to valuers who possess at least a first degree in real estate management with specialization in valuation. Likewise, the registration may be effected in three categories, that is to say, full registration, temporary registration and provisional registration. Full registration will be to those valuers with at least three years of working experience beside possessing the requisite academic qualifications. Temporary registration will be to those valuers from outside Tanzania who are seeking to undertake a valuation assignment in Tanzania for a period not exceeding one year. Registration of Firms is subject to the valuer acquiring practicing certificate and being compliant to the Companies Act, Cap 212. Finally, provisional registration is reserved for graduates and those who have not attained the three years working experience.

On the other hand, enlistment of valuers is reserved to valuers with certificate or diploma in valuation. The enlisted valuers or technician valuers are allowed to act as assistants in valuation assignments under supervision of registered valuers.

Other matters relating to granting and refusal of application for registration, validity of practicing certificates, rights and privileges of registered and enlisted valuers, Register, inspection of the Register as well as suspension and cancellation of practicing certificate are provided for under his part.

Part V provides for guidance on valuation practice, whereby matters relating to types of valuation, purposes, bases and methods of

valuation are clearly elaborated. In addition, this Part proposes for provisions relating to validity of valuation, cut-off date and limitation period and other matters relating to access to land or buildings.

Part VI of the Bill deals with financial provisions, in which case matters relating to sources of funds of the Board, accounts and audit as well as annual performance report are well set out.

Part VII proposes for general provisions. This Part focuses on code of ethics for Government, registered valuers, authorized valuers, valuation fees, offences and penalties, regulations to be made by the Minister, rules of the Board, and the savings and transition provisions.

Finally, the Bill proposes Schedules which covers matter relating to proceeding of the Board and consequential amendments whereby all laws which, in one way or another may be affected by the proposed Act are also proposed to be amended. These include the Land Act, Cap. 113, the Urban Authority (Rating) Act, Cap. 289 and the Professional Surveyors (Registration) Act, Cap. 270.

SHERIA YA UTHAMINI NA USAJILI WA WATHAMINI YA
MWAKA 2016

MPANGILIO WA VIFUNGU

Kifungu *Jina*

SEHEMU YA KWANZA
MASHARTI YA AWALI

1. Jina na tarehe ya kuanza kutumika
2. Matumizi
3. Tafsiri

SEHEMU YA PILI
MTHAMINI MKUU

4. Mthamini Mkuu
5. Uteuzi wa Mthamini Mkuu
6. Mamlaka na majukumu ya Mthamini Mkuu
7. Uhakiki wa taarifa ya uthamini
8. Uteuzi wa Wathamini Wakuu Wasaidizi
9. Wathamini wa Serikali
10. Wathamini walioidhinishwa
11. Mamlaka ya kukasimu madaraka

SEHEMU YA TATU
BODI YA USAJILI WA WATHAMINI

12. Kuanzishwa kwa Bodi
13. Muundo wa Bodi
14. Kazi za Bodi
15. Kamati za Bodi
16. Mamlaka ya kukasimu kazi
17. Mamlaka ya kufanya uchunguzi
18. Utunzaji siri
19. Ushindani usio sawa kwenye shughuli za uthamini
20. Kazi, maadili na mienendo
21. Upelelezi wa malalamiko

- 22. Maamuzi ya Bodi
- 23. Uteuzi wa Msajili
- 24. Sekretarieti

SEHEMU YA NNE
USAJILI WA WATHAMINI
(a) Mahitaji ya Jumla

- 25. Katazo la kufanya shughuli za uthamini bila cheti
- 26. Maombi na vigezo vya usajili wa wathamini

(b) Makundi ya Usajili wa Wathamini

- 27. Makundi ya usajili
- 28. Usajili kamili
- 29. Usajili wa muda
- 30. Usajili wa mpito

(c) Kukubaliwa na Kukataliwa kwa Maombi

- 31. Utoaji wa cheti
- 32. Kukataliwa maombi
- 33. Rufaa kwa Waziri
- 34. Uhalali wa cheti
- 35. Uhuishaji wa cheti

(d) Haki, Stahili, Vyeo vya wathamini na Uorodheshaji wathamini

- 36. Haki na stahili za mthamini aliyesajiliwa
- 37. Matumizi ya vyeo baada ya kusajiliwa
- 38. Uorodheshaji wathamini

(e) Rejesta

- 39. Rejesta
- 40. Uchapishaji wa orodha ya wathamini waliosajiliwa na walioorodheshwa
- 41. Ukaguzi wa rejesta
- 42. Usajili wa nyaraka zilizopokelewa kama ushahidi

(f) Kusimamishwa, kufutwa na utangazaji wa vyeti

43. Kusimamisha matumizi ya cheti
44. Kufutwa kwa cheti
45. Uchapishaji wa taarifa ya kusimamishwa au kufutwa kwa cheti
46. Kutangazwa kutakuwa ni ushahidi wa umiliki wa cheti cha uthamini

**SEHEMU YA TANO
MWONGOZO KUHUSU UFANYAJI WA TATHMINI**

47. Mwongozo kuhusu ufanyaji wa thathmini
48. Aina za uthamini
49. Madhumuni ya kufanya uthamini
50. Vigezo vya kufanya uthamini
51. Njia za kufanya uthamini
52. Uhalali wa uthamini
53. Tarehe ya uthamini na muda wa ukomo
54. Miongozo
55. Kuingia kwenye ardhi, majengo, nk
56. Kuwasilisha taarifa muhimu
57. Mtathmini kutokuwa wakala wa mthamini asiyesajiliwa

**SEHEMU YA SITA
MASHARTI KUHUSU FEDHA**

58. Vyanzo vya fedha
59. Hesabu
60. Ukaguzi
61. Taarifa ya Mwaka ya Utekelezaji

**SEHEMU YA SABA
MASHARTI YA JUMLA**

62. Marufuku kwa mthamini aliyesajiliwa kutumia jina au kufanya kazi za uthamini
63. Kuthibitisha ripoti ya uthamini
64. Ada ya uthamini
65. Makosa yanayofanywa na shirika
66. Uandaaji wa kanuni za maadili

67. Makosa
68. Uzembe wa msajili aliyesajiliwa
69. Kinga
70. Kanuni
71. Kanuni za Bodi
72. Masharti yanayoendelea kutumika na masharti ya mpito
73. Marekebisho ya sheria mbalimbali

MAJEDWALI

TAARIFA

Muswada huu ambao utawasilishwa Bungeni, umechapishwa kwa ajili ya kutoa taarifa ya jumla kwa umma pamoja na maelezo ya madhumuni na sababu zake.

Dar es Salaam,
17 Mei, 2016

JOHN W.H. KIJAZI
Katibu wa Baraza la Mawaziri

MUSWADA

wa

Sheria kwa ajili ya kuainisha mamlaka na majukumu ya Mthamini Mkuu wa Serikali; kuanzisha Bodi ya Usajili wa Wathamini; kuainisha majukumu na muundo wa uongozi wa Bodi; kudhibiti na kusimamia taaluma na kazi za uthamini; na kuainisha masuala mengine yanayofanana na hayo.

IMETUNGWA NA Bunge la Jamhuri ya Muungano wa Tanzania.

**SEHEMU YA KWANZA
MASHARTI YA AWALI**

Jina na tarehe ya
kuanza kutumika

1. Sheria hii itaitwa Sheria ya Uthamini na Usajili wa Wathamini ya mwaka 2016 na itanza kutumika katika tarehe ambayo Waziri, kwa tangazo litakalochapishwa kwenye Gazeti la Serikali, ataiteua.

Matumizi

2. Sheria hii itatumika Tanzania Bara.

Tafsiri

3. Katika Sheria hii, isipokuwa kama muktadha utaelekeza vinginevyo-
“chama” maana yake ni chama kilichoundwa na watu wanaofanya shughuli za uthamini na shughuli nyingine zinazofanana na uthamini;

- “Mthamini Mkuu Msaidizi” maana yake ni mtu aliyeteuliwa kuwa Mthamini Mkuu Msaidizi wa Serikali kwa mujibu wa kifungu cha 8;
- “Mthamini aliyeidhinishwa” maana yake ni mthamini aliyeidhinishwa chini ya kifungu cha 10 kufanya kazi za uthamini;
- “Bodi” maana yake ni Bodi ya Usajili wa Wathamini iliyoanzishwa chini ya kifungu cha 12;
- “cheti” maana yake ni cheti cha kutekeleza kazi za uthamini kilichotolewa chini Sheria hii;
- “Mwenyekiti” maana yake ni Mwenyekiti wa Bodi na inajumuisha Makamu Mwenyekiti au mtu yeyote aliyeteuliwa kwa ajili hiyo;
- “Mthamini Mkuu” maana yake ni mtu aliyeteuliwa kama Mthamini Mkuu wa Serikali chini ya kifungu cha 5;
- “mteja” maana yake ni mtu anayeomba uthamini ufanywe na mthamini aliyesajiliwa chini ya Sheria hii;
- “mali linganishi” maana yake ni mali yenye sifa sawia na mali iliyo chini ya uthamini;
- “mthamini wa Serikali” maana yake ni mthamini aliyeajiriwa na Serikali na ambaye anafanya kazi kwa mujibu wa kifungu cha 9;
- “ardhi” ina maana sawa na ile iliyotolewa katika Sheria ya Ardhi;
- “thamani ya soko” maana yake ni makisio ya thamani ambayo mali itabadilishwa katika tarehe ya uthamini baina ya mnunuzi na muuzaji baada ya utafiti wa soko ambapo pande zote mbili zimefikia uamuzi kwa weledi, uaminifu na bila kushurutishwa;
- “Waziri” maana yake ni Waziri mwenye dhamana na masuala ya ardhi;
- “mali” maana yake ni maslahi, haki na faida zinazohusiana na umiliki wa ardhi na maendelezo yake au mali zinazohamishika;
- “mthamini aliyesajiliwa” maana yake ni mtu aliyesajiliwa kufanya shughuli za uthamini chini

- ya Sheria hii;
- “Msajili” maana yake ni Msajili wa Bodi aliyeteuliwa chini ya kifungu cha 23;
- “mthamini msaidizi” maana yake ni mtu aliyeorodheshwa kama mthamini msaidizi chini ya Sheria hii;
- “uthamini” maana yake ni mchakato ambapo thamani ya maslahi katika mali, biashara, umiliki au haki za mtumiaji inatathminiwa na mthamini;
- “shughuli za uthamini” maana yake ni mfumo ambao mthamini anaamua thamani ya maslahi katika mali isiyohamishika na inayohamishika, biashara, umiliki au haki za mtumiaji;
- “mthamini” maana yake ni mtu mwenye shahada au sifa ya kitaaluma inayoendana na hiyo katika masuala ya uthamini kutoka chuo kikuu au taasisi inayotambuliwa.

**SEHEMU YA PILI
MTHAMINI MKUU**

Mthamini Mkuu

4. Kutakuwa na Mthamini Mkuu, ndani ya Wizara yenye dhamana na masuala ya ardhi, ambaye atakuwa na wajibu wa kuishauri Serikali katika masuala yote yanayohusu shughuli za uthamini.

Uteuzi wa
Mthamini Mkuu

5.-(1) Mthamini Mkuu atateuliwa na Rais kutoka miongoni mwa watumishi wa umma.

(2) Mtu yeyote anaweza kustahili kuteuliwa katika nafasi ya Mthamini Mkuu iwapo mtu huyo-

- (a) ana angalau shahada ya uzamili au sifa inayoshabihiana na hiyo kwenye masuala ya uthamini au taaluma inayohusiana na hiyo kutoka kwenye taasisi inayotambulika;
- (b) ana uzoefu kwenye tasnia ya uthamini kwa muda usiopungua miaka kumi;
- (c) ana mwenendo unaokubalika katika jamii.

Mamlaka na majukumu ya Mthamini Mkuu

6.-(1) Mthamini Mkuu atakuwa ndiye mshauri mkuu wa Serikali katika masuala yote yanayohusu uthamini na atakuwa Mkuu wa Idara ya Mthamini Mkuu, na atakuwa na majukumu yafuatayo:

- (a) kuishauri Serikali kwenye masuala yanayohusu shughuli za uthamini, ikiwemo viwango vya uthamini katika ununuzi na uuzaji wa mali za Serikali;
- (b) kufanya uthamini wa mali baada ya kuelekezwa kufanya hivyo na Serikali, taasisi au watu binafsi;
- (c) kufanya utafiti na kutunza benki data kwa ajili ya matumizi ya wathamini na wananchi;
- (d) kuanzisha na kutunza kanzi data ya miamala ya mali au data nyingine zinazohusu Serikali;
- (e) kuandaa na kuwasilisha kwa Waziri, taarifa za robo kuhusu shughuli za uthamini;
- (f) kuijulisha Bodi au mamlaka nyingine husika kuhusu ukiukwaji wa maadili ya kitaaluma uliofanywa na mthamini aliyesajiliwa au aliyeorodheshwa;
- (g) kuratibu malalamiko yatokanayo na uthamini wa Serikali;
- (h) kuandaa au kusababisha kuandaliwa, kusimamia na kuidhinisha taarifa zote za uthamini; na
- (i) kufanya kazi nyingine yoyote kama atakavyoelekezwa na Waziri.

(2) Katika kutekeleza majukumu yake chini ya kifungu kidogo cha (1), Mthamini Mkuu atakuwa na mamlaka ya-

- (a) kutoza ada kuhusiana na huduma zinazotolewa na wathamini wa Serikali kama itakavyoainishwa na Waziri;
- (b) kupendekeza kwa mamlaka stahiki ya nidhamu, hatua zinazopaswa kuchukuliwa dhidi ya Wathamini wa Serikali au aliyeorodheshwa;

- (c) kuteua au kuidhinisha wathamini kwa ajili ya kazi mahsusi ya uthamini itakayojitokeza.

Uhakiki wa taarifa ya uthamini

7.-(1) Iwapo Mthamini Mkuu ameridhika kwamba uthamini haukufanyika ipasavyo, anaweza-

- (a) kuikataa taarifa ya uthamini; au
(b) kutembelea mali iliyohusika na uthamini kwa madhumuni ya kufanya uhakiki.

(2) Iwapo, baada ya uhakiki wa uthamini chini ya kifungu kidogo cha (1), Mthamini Mkuu ameridhika kwamba uthamini haukuzingatia miongozo ya uthamini, Mthamini Mkuu anaweza-

- (a) kupendekeza kwa mamlaka husika ya nidhamu, hatua zinazopaswa kuchukuliwa dhidi ya mthamini aliyesajiliwa;
(b) kumpa mthamini mwingine aliyesajiliwa kazi ya uthamini wa mali hiyo.

Uteuzi wa Wathamini Wakuu Wasaidizi

8.-(1) Kutakuwa na Wathamini Wakuu Wasaidizi ambao watateuliwa kwa kuzingatia utaratibu wa uteuzi chini ya Sheria ya Utumishi wa Umma na ambao watamsaidia Mthamini Mkuu katika utekelezaji wa majukumu yake chini ya Sheria hii.

(2) Mtu yeyote atastahili kuteuliwa katika nafasi ya Mthamini Mkuu Msaidizi iwapo mtu huyo ana sifa zilizoainishwa kwenye kifungu cha 5(2).

(3) Mthamini Mkuu Msaidizi atawajibika kwa Mthamini Mkuu na atafanya kazi atakazopangiwa na Mthamini Mkuu.

(4) Wathamini Wakuu Wasaidizi watakuwepo kwenye ofisi za kanda au katika maeneo yoyote ambayo Mthamini Mkuu ataamua.

Wathamini wa Serikali

9.-(1) Kutakuwa na wathamini wa Serikali ambao watateuliwa au kuajiriwa kwa kuzingatia Sheria ya Utumishi wa Umma na ambao watafanya kazi kwenye sekta ya Umma, Wizara, idara na taasisi za Serikali na mamlaka za serikali za mitaa.

(2) Wathamini wa Serikali watatekeleza shughuli

za uthamini kwa maelekezo na usimamizi wa Mthamini Mkuu.

Wathamini
walioidhinishwa

10.-(1) Kwa madhumuni ya utekelezaji bora wa majukumu yake chini ya Sheria hii, Mthamini Mkuu anaweza kumteua mthamini yeyote mwenye usajili kamili kuwa mthamini muidhinishwa.

(2) Mthamini aliyeidhinishwa atatekeleza majukumu yake katika Mikoa au Wilaya kama ambavyo Mthamini Mkuu ataelekeza kwenye barua yake ya uteuzi.

(3) Katika kutekeleza kazi zake chini ya Sheria hii, mthamini aliyeidhinishwa atawajibika kwa Mthamini Mkuu Msaidizi.

(4) Uteuzi wa mthamini muidhinishwa chini ya kifungu hiki utachapishwa kwenye Gazeti la Serikali.

Mamlaka ya
kukasimu
madaraka

11.-(1) Kwa madhumuni ya utekelezaji bora wa majukumu yake chini ya Sheria hii, Mthamini Mkuu anaweza kukasimu majukumu yake kwa Mthamini Mkuu Msaidizi au mthamini muidhinishwa aliyeteuliwa chini ya Sheria hii.

(2) Kukasimu madaraka kunaweza kufanywa kwa ajili ya suala mahsusi au kundi mahsusi au la jumla la kazi, au sehemu yoyote ya Tanzania Bara.

(3) Kukasimu madaraka yoyote chini ya kifungu hiki kunaweza kubatilishwa, na hakutamzuia Mthamini Mkuu kutekeleza majukumu yake au kutumia mamlaka aliyonayo.

SEHEMU YA TATU BODI YA USAJILI WA WATHAMINI

Kuanzishwa kwa
Bodi

12.-(1) Inaanzishwa Bodi itakayojulikana kama Bodi ya Usajili wa Wathamini.

(2) Bodi itakuwa ni chombo hodhi, chenye uhai wa kudumu, chenye lakiri yake na kwa jina lake, itakuwa na mamlaka ya-

(a) kushtaki na kushtakiwa;

- (b) kutwaa, kumiliki na kuuza mali zisizohamishika na binafsi;
- (c) kuingia mkataba wowote au kufanya muamala, na kutekeleza mambo mengine yote ambayo chombo hodhi kinaweza kufanya kihalali;
- (d) kutumia mamlaka yake na kutekeleza majukumu iliyopewa chini ya Sheria hii.

(3) Bila kujali kifungu kidogo cha (2), Mwanasheria Mkuu wa Serikali atakuwa na haki ya kuingilia kati katika kesi au shauri lolote lililofunguliwa na, au dhidi ya Bodi.

Sura ya 5

(4) Pale ambapo Mwanasheria Mkuu wa Serikali anaingilia kati katika shauri lolote, masharti ya Sheria ya Mwenendo wa Mashauri dhidi ya Serikali, yatatumika katika mwenendo wa shauri hilo kana kwamba shauri hilo limefunguliwa na, au dhidi ya Serikali.

(5) Kwa madhumuni ya kifungu kidogo cha (3), Bodi itakuwa na jukumu la kumtaarifu Mwanasheria Mkuu wa Serikali kuhusu shauri lolote lililofunguliwa au linalokusudiwa kufunguliwa na, au dhidi ya Bodi.

(6) Utaratibu wa uendeshaji wa shughuli za Bodi utakuwa kama ulivyoainishwa kwenye Jedwali la Kwanza.

Muundo wa Bodi

13.-(1) Bodi itakuwa na wajumbe wasiozidi tisa watakaoteuliwa na Waziri kama ifuatavyo:

- (a) Mwenyekiti;
- (b) Mthamini mwandamizi aliyesajiliwa kutoka Wizara yenye dhamana na masuala ya ardhi;
- (c) mthamini mmoja mwenye usajili wa kudumu na anayefanya kazi kwenye mamlaka za serikali za mitaa atakayependekezwa na Wizara yenye dhamana na masuala ya serikali za mitaa;
- (d) mwakilishi mmoja wa chama cha wathamini;
- (e) mwakilishi mmoja wa taasisi za elimu ya juu zinazotoa mafunzo ya taaluma ya uthamini;
- (f) mwakilishi mmoja wa kampuni binafsi za

uthamini;

- (g) Afisa Sheria mmoja atakayependekezwa na Mwanasheria Mkuu wa Serikali;
- (h) mhasibu aliyebobea kwenye masuala ya fedha atakayependekezwa na Wizara yenye dhamana na masuala ya fedha; na
- (i) mpima ardhi mmoja kutoka Wizara yenye dhamana na masuala ya ardhi.

(2) Isipokuwa kwa wajumbe watakaopendekezwa chini ya aya za (g), (h) na (i), mtu yeyote hatastahili kuteuliwa kuwa mjumbe wa Bodi isipokuwa kama mtu huyo ni mthamini aliyesajiliwa chini ya Sheria hii.

(3) Msajili ndiye atakayekuwa katibu wa Bodi.

(4) Bodi inaweza kumwalika Mthamini Mkuu au mtu mwingine yeyote kuhudhurika kikao cha Bodi kwa madhumuni ya kisaidia Bodi kufanya uamuzi kuhusu suala au jambo lolote linalohitaji utaalamu, weledi au ushauri wa mtu huyo, lakini mjumbe huyo mwalikwa hatakuwa na haki ya kupiga kura katika kikao chochote cha Bodi.

Kazi za Bodi

14.-(1) Bodi itafanya kazi zifuatazo:

- (a) kusajili wathamini na kuorodhesha wathamini wasaidizi;
- (b) kutoa vyeti kwa watu wenye sifa za kufanya kazi za uthamini;
- (c) kutathmini sifa za kitaaluma na za kiutendaji katika tasnia ya uthamini kwa madhumuni ya usajili;
- (d) kuchapisha kila mwaka kwenye Gazeti la Serikali na gazeti lingine linalosambazwa kwa wingi, orodha yenye majina, anwani na sifa za kitaaluma za wathamini waliosajiliwa na walio kwenye Rejesta;
- (e) kusimamia masuala ya nidhamu na maadili ya kitaaluma katika kazi za uthamini;
- (f) kuendeleza na kuhamasisha wanataaluma wa uthamini kujiendeleza kielimu;
- (g) kupokea na kushughulikia malalamiko

- yaliyowasilishwa na wathamini waliosajiliwa, Mthamini Mkuu au mtu mwingine yeyote;
- (h) kufanya mashauriano na taasisi za mafunzo ya wathamini na vyama vya wathamini ili kuhakikisha kwamba kanuni za utekelezaji bora wa shughuli za uthamini zinafuatwa;
 - (i) kuandaa kozi, warsha, semina, majadiliano na mashauriano katika masuala yanayohusu uthamini;
 - (j) kujenga mazingira wezeshi yatakayosaidia ukuaji wa kitaaluma wa wathamini waliosajiliwa;
 - (k) kuendesha elimu endelevu ya kitaaluma;
 - (l) kuratibu uchapishaji na usambazaji wa taarifa zinazohusu shughuli za uthamini;
 - (m) kuhakikisha kwamba shughuli za uthamini zinatekelezwa kwa kuzingatia viwango vya uthamini vilivyoainishwa;
 - (n) kufanya ukaguzi wa mara kwa mara wa ubora wa uthamini unaofanywa na wathamini kwa utaratibu utakaoainishwa na Bodi, na kuchukua hatua stahiki; na
 - (o) kufanya kazi nyingine yoyote ambayo Waziri anaweza kuelekeza.
- (2) Katika kutekeleza majukumu yake chini ya kifungu kidogo cha (1), Bodi-
- (a) itendeleza imani kwa Bodi katika uendeshaji wa shughuli na usimamizi wa taaluma ya uthamini;
 - (b) itahakikisha kwamba uendeshaji wa shughuli za uthamini unafanyika kwa mfanano na kwa watu waaminifu na wenye weledi;
 - (c) italinda maslahi ya watumiaji wa huduma za uthamini;
 - (d) itaimarisha weledi na uelewa wa wanachi kuhusu uthamini, hususan-
 - (i) haki na wajibu wa watumiaji wa huduma za uthamini na wathamini kama watoa huduma;

(ii) njia za kutatua malalamiko na migogoro.

Kamati za Bodi

15.-(1) Kwa madhumuni ya utekelezaji bora wa shughuli zake chini ya Sheria hii, Bodi inaweza kuunda kamati mbalimbali.

(2) Bila kuathiri kifungu kidogo cha (1), kamati zitajumuisha-

- (a) Kamati ya Kitaaluma;
- (b) Kamati ya Elimu Endelevu ya Taaluma na Mitihani;
- (c) Kamati ya Maadili na Nidhamu;
- (d) Kamati ya Usuluhishi; na
- (e) Kamati nyingine yoyote ambayo Bodi itaiunda.

Mamlaka ya kukasimu kazi

16.-(1) Bodi inaweza kukasimu kazi zake chini ya Sheria hii kwa kamati ya Bodi,

Isipokuwa kwamba, Bodi haitakasimu kazi zinazohusu-

- (a) kudahili wa waleta maombi ya usajili;
- (b) kuidhinisha bajeti ya mwaka, programu za kazi au hesabu za Bodi;
- (c) kuchukua hatua za kinidhamu dhidi ya wathamini.

(2) Bila kuathiri masharti ya kifungu kidogo cha (1), kamati inaweza kualika wajumbe ambao si wajumbe wa Bodi kwa madhumuni ya utekelezaji bora wa kazi zake.

Mamlaka ya kufanya uchunguzi

17.-(1) Bodi inaweza, yenyewe au kwa kuelekezwa kwa maandishi na Waziri, kufanya uchunguzi wa suala mahsusi lililoainishwa na Waziri au ambalo Bodi inaona ni muhimu kwa madhumuni ya utekelezaji wa majukumu yake.

(2) Waziri ataainisha katika maelekezo yake chini ya kifungu kidogo cha (1) muda ambao Bodi itawasilisha taarifa yake kuhusu uchunguzi na Bodi itawasilisha taarifa yake kwa Waziri ndani ya muda huo.

(3) Iwapo uchunguzi unakusudiwa kuhusisha

umma, Bodi itatoa taarifa ya uchunguzi katika Gazeti la Serikali na katika gazeti linalosambazwa kwa wing Tanzania Bara ikiainisha madhumuni ya uchunguzi, muda ambao maoni yanaweza kutolewa kwa Bodi, namna ambavyo maoni yatatolewa, suala linalohusika na uchunguzi na chanzo cha uchunguzi huo

(4) Kwa madhumuni ya uendeshaji mashauri wakati wa uchunguzi wowote utakaofanywa na Bodi-

(a) Mwenyekiti atakula kiapo kwa mujibu wa masharti ya Sheria ya Viapo na Matamko na, kwa jina la Bodi, atatoa wito wa kuitwa shaurini utakaosainiwa na yeye mwenyewe, akimwelekeza mtu anayetajwa kwenye wito huo kuhudhuria katika muda na mahali palipotajwa katika wito na kutoa ushahidi au nyaraka iliyoainishwa kwenye taarifa;

(b) Bodi itakuwa na mamlaka ya kutoa amri zozote kwa upande wowote, kuhusu malipo ya gharama za mashahidi kama ambavyo itaona inafaa, na amri hiyo itakuwa na nguvu ya kisheria kama amri iliyotolewa na Mahakama Kuu

(c) kwa kuzingatia masharti yaliyotangulia ya kifungu hiki na kanuni zozote zitakazotengenezwa, Bodi itakuwa na mamlaka ya kutengeneza utaratibu wa kuendesha shughuli zinazohusu uchunguzi; na

(d) Bodi inaweza kuelekeza kuchapishwa, kwa vigezo na namna ambayo Bodi itaona inafaa, taarifa ya uchunguzi uliofanywa na Bodi.

Utunzaji siri

18. Isipokuwa kwa madhumuni ya utekelezaji wa majukumu yake, atakapotakiwa na sheria au atakapoidhinishwa na Bodi au Mthamini Mkuu, mjumbe wa Bodi, mtumishi wa Bodi au mthamini aliyesajiliwa hatatoa taarifa yoyote kuhusiana na ripoti ya uthamini ya mteja, aliyoipata wakati wa ajira yake au katika utekelezaji wa kazi zake.

Ushindani usio
sawa kwenye
shughuli za
uthamini

19.-(1) Bodi itashughulikia masuala yanayohusu ushindani yanayotokana na utekelezaji wa kazi au majukumu yake, na inaweza kuchunguza na kutoa taarifa kuhusu masuala hayo na kupendekeza kwa Tume ya Ushindani au chombo kingine chochote kinachohusika, kuhusu-

- (a) ukiukwaji wowote wa Sheria ya Ushindani;
 - (b) ushindani dhahiri au unaotarajiwa katika soko lolote la huduma zinazotolewa na wathamini;
 - (c) athari yoyote inayoweza kutokea kwa wananchi.
- (2) Bodi itazingatia-
- (a) iwapo masharti kuhusu ushindani wenye tija yapo kuhusiana na utoaji wa huduma za uthamini katika soko;
 - (b) iwapo utekelezaji wowote wa mamlaka ya Bodi unaweza kusababisha kufifishwa kwa ushindani au gharama za ziada kwenye uthamini na unaweza kuathiri umma;
 - (c) iwapo athari hizo kwa umma zinaweza kuwa kubwa kupita faida ambayo wananchi wataipata kutokana na utekelezaji wa kazi za Bodi.

Kazi, maadili na
mienendo

20. Kila mthamini aliyesajiliwa au kuorodheshwa atakuwa na wajibu wa kutekeleza shughuli zinazohusu taaluma yake kwa uaminifu na weledi wa hali ya juu na atatakiwa kuzingatia maadili ya kitaaluma yaliyoainishwa chini ya Sheria hii.

Upelelezi wa
malalamiko

21.-(1) Iwapo malalamiko yamewasilishwa kwenye Bodi dhidi ya mthamini aliyesajiliwa au aliyeorodheshwa, Bodi inaweza kuielekeza Kamati ya Nidhamu ya Bodi kufanya upelelezi kuhusu malalamiko hayo.

(2) Kamati ya Nidhamu itafanya upelelezi wa awali katika namna itakayoona inafaa na kuwasilisha taarifa ya upelelezi kwa Bodi.

(3) Kamati ya Nidhamu inaweza, katika mchakato wa upelelezi, kumwalika mtu yeyote kutoa ushauri wa kitaalamu utakaohitajika.

Uamuzi wa Bodi

22.-(1) Bodi inaweza, baada ya kupokea taarifa kutoka kwa Kamati ya Nidhamu-

(a) kuijadili taarifa hiyo na kutoa uamuzi wa suala husika; au

(b) kuelekeza uchunguzi wa suala hilo kufanyika.

(2) Bodi inaweza kutengeneza kanuni za uendeshaji upelelezi na uchunguzi chini ya Sheria hii.

Uteuzi wa Msajili

23.-(1) Waziri, baada ya kushauriana na Bodi, atamteua mthamini yeyote mwenye usajili kamili kuwa Msajili.

(2) Msajili atakuwa ndiye afisa mtendaji mkuu, na atasimamia utekelezaji wa siku kwa siku wa shughuli za Bodi.

(3) Msajili atashika wadhifa huo kwa kipindi cha miaka mitatu, na anaweza, kwa kuzingatia iwapo utendaji kazi wake unaridhisha, kuteuliwa tena kwa kipindi kingine kimoja cha miaka mitatu.

(4) Kazi za Msajili zitakuwa ni-

(a) kufanya usajili wa wathamini na wathamini wasaidizi kama itakavyoidhinishwa na kuelekezwa na Bodi;

(b) kuandaa taarifa mbalimbali na nyaraka nyingine kuhusu masuala ya uthamini kwa ajili ya kutolewa uamuzi na Bodi;

(c) kupanga na kutunza mihutasari ya vikao vya Bodi;

(d) kutunza na kuboresha Rejesta kwa kuzingatia maelekezo ya Bodi;

(e) kuwezesha usitishwaji wa muda au ufutwaji wa cheti kilichotolewa kwa mthamini aliyesajiliwa au mthamini msaidizi kama ilivyoelekezwa na Bodi;

(f) kuwezesha mawasiliano kwa niaba ya Bodi, baina ya Bodi na wathamini, Mthamini Mkuu

- na taasisi nyinginezo;
- (g) kutoa vyeti vya usajili baada ya kuidhinishwa na Bodi; na
- (h) kufanya kazi nyingine yoyote kama itakavyoainishwa na Bodi.
- (5) Katika utekelezaji wa majukumu yake chini ya Sheria hii, Msajili atawajibika kwa Bodi.

Sekretarieti

24.-(1) Kutakuwa na Sekretarieti ya Bodi itakayoundwa na Msajili pamoja na watumishi wengine ambao watateuliwa au kuajiriwa kwa masharti ambayo Bodi itaelekeza.

(2) Watumishi watakaoteuliwa au kuajiriwa chini ya Sheria hii watawajibika kwa Msajili na watatekeleza kazi ambazo Msajili atawapangia.

SEHEMU YA NNE
USAJILI WA WATHAMINI
(a) Mahitaji ya Jumla

Katazo la kufanya shughuli za uthamini bila cheti

25.-(1) Mtu yeyote au kampuni haitafanya shughuli zinazohusu uthamini chini ya Sheria hii bila kuwa na cheti kilichotolewa na Bodi.

(2) Mtu yeyote au kampuni inayokiuka kifungu hiki inatenda kosa na tawajibika, baada ya kutiwa hatiani-

- (a) iwapo ni mtu binafsi, kulipa adhabu ya faini isiyopungua shilingi milioni tano na isiyozidi shilingi milioni ishirini, au kifungo kwa kipindi kisichopungua miaka miwili lakini kisichoziidi miaka mitano, au vyote kwa pamoja; na
- (b) iwapo ni kampuni, kulipa adhabu ya faini isiyopungua shilingi milioni ishirini.

Maombi na vigezo vya usajili wa wathamini

26.-(1) Mtu yeyote mwenye nia ya kusajiliwa chini ya Sheria hii atawasilisha maombi yake kwa Bodi katika fomu maalum na baada ya kulipia ada iliyoainishwa.

(2) Mtu atastahili kusajiliwa kama mthamini chini ya Sheria hii iwapo mtu huyo-

- (a) ana angalau shahada ya kwanza katika masuala ya ardhi na majengo akiwa amebobea kwenye masuala ya uthamini kutoka chuo kikuu au taasisi inayotambuliwa na Bodi;
- (b) amekidhi matakwa mengine ya nyongeza kuhusu alivyopata uzoefu katika masuala ya uthamini na matakwa mengine ya ziada yaliyoainishwa na Bodi.

(3) Kampuni itastahili kusajiliwa kama kampuni ya ushauri elekezi iwapo-

- (a) imesajiliwa chini ya Sheria ya Makampuni;
- (b) wamiliki wa kampuni hiyo wamesajiliwa na Bodi.

(4) Bodi inaweza kumtaka mwombaji yeyote chini ya kifungu hiki airidhishe Bodi kwamba utalam wake na mwenendo wake kwa ujumla unamfanya astahili kusajiliwa.

(b) Makundi ya Usajili wa Wathamini

Makundi ya usajili

27.-(1) Usajili wa wathamini utakuwa katika makundi yafuatayo:

- (a) usajili wa kamili;
- (b) usajili wa muda;
- (c) usajili wa mpito; na

Kundi lingine lolote la ziada kama ambavyo Bodi itaainisha.

(2) Bodi itaainisha sifa za ziada ambazo Bodi itaona muhimu kwa ajili ya usajili wa kila kundi.

Usajili kamili

28. Mtu yeyote anaweza kusajiliwa kama mthamini mwenye usajili kamili baada ya kuiridhisha Bodi kwamba mtu huyo-

- (a) amekidhi masharti ya usajili yaliyoainishwa kwenye kifungu cha 26(2);
- (b) ana uzoefu wa miaka mitatu au zaidi;

- (c) amefaulu mtihani unaoandaliwa na Bodi; na
- (d) ni raia wa Tanzania.

Usajili wa muda

29.-(1) Mtu yeyote anaweza kusajiliwa kama mthamini wa muda baada ya kuiridhisha Bodi kwamba mtu huyo-

- (a) si raia wa Tanzania;
- (b) amekidhi masharti ya usajili yaliyoainishwa kwenye kifungu cha 26(2);
- (c) ana nia ya kuajiriwa Tanzania kama mthamini kwa madhumuni ya kutekeleza kazi mahsusi ya uthamini kwa muda usiozidi mwaka mmoja;
- (d) ana mwenendo unaofaa na ana usajili kamili katika nchi anayotoka au katika nchi nyingine yoyote aliyofanyia kazi awali.

(2) Bodi inaweza kumtaka mleta maombi ya usajili chini ya kifungu hiki kufika mbele ya Bodi au kuleta nyaraka zinazohusu elimu yake, kazi au ajira au masuala mengine yanayohusika na maombi.

(3) Usajili wa mtu yeyote chini ya kifungu hiki utakuwa halali kwa kipindi kile ambacho mtu huyo anafanya kazi hiyo mahsusi au kwa kipindi ambacho Bodi itaainisha, na baada ya kazi hiyo mahsusi kuwa imeisha au muda wa kazi husika kumalizika, usajili wa mtu huyo hautakuwa halali.

(4) Mtu yeyote aliyesajiliwa chini ya kifungu hiki atachukuliwa kama amesajiliwa chini ya Sheria hii kuhusiana na muda wa kazi mahsusi au muda ulioainishwa na Bodi, na kwa mambo yatakayofanywa wakati wa utekelezaji wa kazi hiyo mahsusi, lakini kuhusiana na masuala mengine, mtu huyo atahesabika kuwa hajasajiliwa.

Usajili wa mpito

30.-(1) Mtu yeyote atastahili kusajiliwa katika kundi hili iwapo mtu huyo-

- (a) ana shahada kutoka chuo kikuu au taasisi inayotambuliwa na mamlaka husika;
- (b) hana uzoefu ambao utamwezesha kupata

usajili kamili chini ya Sheria hii;

(c) amekidhi vigezo vingine vyovyote vya ziada kama Bodi itakavyoainisha.

(2) Mtu yeyote aliyepata usajili wa mpito atafanya kazi zake chini ya uangalizi wa mthamini mwenye usajili kamili au mthamini mwenye usajili wa muda, na hataruhusiwa kuidhinisha taarifa za uthamini.

(c) Kukubaliwa na Kukataliwa kwa Maombi

Utoaji wa cheti

31. Iwapo Bodi imeridhika kwamba mleta maombi amekidhi vigezo vyote vya usajili chini ya Sheria hii na anastahili kwa usajili, Bodi, ndani ya siku sitini tangu tarehe ya kupokelewa maombi, itamwelekeza Msajili kuingiza taarifa za mleta maombi kwenye Rejesta na baadaye kumpa cheti cha uthibitisho wa kufanya shughuli za uthamini.

Kukataliwa maombi

32.-(1) Bodi inaweza kukataa ombi lolote iwapo-

(a) maombi husika yana kasoro katika taarifa muhimu;

(b) mleta maombi ametoa taarifa za uongo au zinazopotosha;

(c) mleta maombi amewahi kutiwa hatiani kwa kosa la jinai linalohusiana na rushwa, ukwepaji kodi au kosa lingine linalofanana na hilo na kuhukumiwa adhabu ya kifungo cha miezi sita au zaidi.

(2) Iwapo Bodi imekataa maombi yoyote, Bodi, ndani ya siku saba tangu tarehe ya kutoa uamuzi wake, itamjulisha mleta maombi kwa maandishi ikieleza sababu za kukataa maombi hayo.

Rufaa kwa Waziri

33.-(1) Mleta maombi ambaye haridhishwi na uamuzi wa Bodi anaweza, ndani ya siku ishirini na moja tangu tarehe ya kupokea taarifa chini ya kifungu cha 32(2), kukata rufaa kwa Waziri.

(2) Baada ya kupokea rufaa, Waziri, ndani ya siku thelathini, ataoa uamuzi wake kuhusu rufaa hiyo.

- (3) Katika kuamua rufaa, Waziri anaweza-
 - (a) kuthibitisha, kutengua au kurekebisha uamuzi wa Bodi;
 - (b) kuielekeza Bodi kuufania marejeo au mapitio uamuzi wake wa awali;
 - (c) kuielekeza Bodi kufanya uchunguzi wa taarifa mahsusi kutoka kwa mrufani na kufanya tafakari zaidi ya maombi.

(4) Iwapo Waziri atathibitisha, atatengua au atarekebisha uamuzi wa Bodi, Waziri atatoa sababu za uamuzi wake.

Uhalali wa cheti

34.-(1) Kila cheti kitaonesha tarehe ambayo cheti hicho kimetolewa na kitakuwa halali kuanzia tarehe hiyo.

(2) Cheti kitakuwa halali kwa mwaka mmoja na kinaweza kuhuishwa baada ya mleta maombi kulipia ada iliyoainishwa na kukidhi masharti mengine kama yatakavyoainishwa na Bodi.

(3) Msajili atawezesha kuchpishwa kwenye Gazeti la Serikali na gazeti lingine linalosambazwa kwa wingi, majina na anwani za wathamini ambao wamepewa vyeti.

Uhuishaji wa cheti

35.-(1) Mmiliki wa cheti kilichotolewa chini ya Sehemu hii anaweza kuiomba Bodi ihuishe cheti chake.

(2) Baada ya kupokea maombi chini ya kifungu kidogo cha (1), Bodi inaweza kuhuisha cheti baada ya-

- (a) mleta maombi kulipia ada ya uhuishaji cheti; na
- (b) mleta maombi kukidhi vigezo na masharti yanayohusu utoaji cheti.

(d) Haki, Stahili, Vyeo vya wathamini na Urodheshaji wathamini

Haki na stahili za mthamini aliyesajiliwa

36. Mthamini aliyesajiliwa na ambaye amepewa cheti atastahili kufanya kazi za uthamini kwa malipo ya fedha, kudai, kushtaki na kurejeshewa na mahakama yoyote gharama za huduma za uthamini alizozitoea.

Matumizi ya vyeo
baada ya
kusajiliwa

37. Kila mthamini, alimradi uhalali wa usajili wake bado upo, atastahili kuitwa, na kutumia jina au cheo-

- (a) iwapo ni mthamini aliyesajiliwa chini ya kifungu cha 28, “Mthamini mwenye Usajili Kamili”;
- (b) iwapo ni mthamini aliyesajiliwa chini ya kifungu cha 29, “Mthamini mwenye Usajili wa Muda”;
- (c) iwapo ni mthamini aliyesajiliwa chini ya kifungu cha 30, “Mthamini mwenye Usajili wa Mpito”;

au cheo kingine kwa namna Bobi itakavyoamua.

Uorodheshaji
wathamini

38.-(1) Kwa kuzingatia Sheria hii, mtu yeyote hatatoa msaada katika ukaguzi, uendeshaji wa uthamini au maandalizi ya taarifa ya uthamini isipokuwa kama mtu huyo ameorodheshwa na Bodi.

(2) Mtu yeyote anastahili kuorodheshwa chini ya kifungu hiki iwapo mtu huyo-

- (a) ana diploma au cheti katika taaluma ya masuala ya ardhi na majengo akijikita zaidi katika uthamini kutoka taasisi inayotambulika;
- (b) ametimiza vigezo vingine vya ziada kama vitakavyoainishwa na Bodi.

(3) Baada ya mthamini kuorodheshwa na kulipia ada iliyoainishwa, Msajili atatoa cheti cha kuorodheshwa katika namna itakayoainishwa.

(4) Msajili atawezesha kuchapishwa kwenye Gazeti la Serikali, taarifa za watu wote walioorodheshwa na kwa kuzingatia maelekezo ya Bodi, Msajili anaweza kufanyia marekebisho au kufuta taarifa zilizo kwenye orodha.

(5) Kila mthamini, alimradi uhalali wa uorodheshwaji wake bado upo, atastahili kuitwa, na kutumia jina au cheo “Mthamini Aliyeorodheshwa”

(e) Rejesta

Rejesta

39.-(1) Msajili atatunza na kuiboresha rejesta ya wathamini na makampuni yote waliosajiliwa kwa kuzingatia masharti ya Sheria hii na maelekezo ya Bodi.

(2) Rejesta ya wathamini itakuwa na taarifa zifuatazo-

- (a) nambari za usajili;
- (b) majina na anwani za wathamini waliosajiliwa;
- (c) sifa za kitaaluma za kila mthamini aliyesajiliwa;
- (d) tarehe ya kuingiza taarifa kwenye Rejesta;
- (e) kundi ambalo mthamini amesajiliwa;
- (f) muda wa usajili;
- (g) taarifa nyingine yoyote itakayoainishwa na Msajili.

(3) Rejesta ya makampuni itakuwa na taarifa zifuatazo-

- (a) jina la kampuni;
- (b) tarehe ya kuingiza taarifa kwenye Rejesta;
- (c) nambari ya usajili;
- (d) anwani na anwani ya makazi;
- (e) tarehe kampuni iliposajiliwa na namba ya kampuni; na
- (f) taarifa nyingine yoyote itakayoainishwa na Msajili.

Uchapishaji wa orodha ya wathamini waliosajiliwa na walioorodheshwa

40. Msajili atachapisha kila mwaka kwenye Gazeti la Serikali na gazeti lingine linalosambazwa kwa wingi, orodha ya wathamini wote waliosajiliwa na walioorodheshwa kama inavyoonekana kwenye Rejesta.

Ukaguzi wa rejesta

41. Rejesta itakuwa ni nyaraka ya umma na mtu yeyote anaweza kuikagua na kupata kutoka kwa Msajili, nakala, sehemu ya nyaraka au nyaraka yoyote kutoka kwenye Rejesta baada ya kulipia ada iliyoainishwa.

Usajili wa nyaraka zilizopokelewa

42.-(1) Kumbukumbu, orodha, nakala au nyaraka za Msajili ambazo zimethibitishwa ipasavyo na Msajili

kama ushahidi zitapokelewa kama nyaraka za umma katika mahakama zote, mabaraza au vyombo vingine vilivyoidhinishwa kupokea ushahidi wa taarifa zilizoainishwa kwenye nyaraka hizo.

(2) Katika shauri lolote ambalo mthamini aliyesajiliwa si mhusika wa shauri hilo, Msajili hatalazimishwa-

- (a) kuwasilisha Rejesta au nyaraka iwapo maudhui yake yanaweza kuthibitishwa chini ya kifungu kidogo cha (1);
- (b) kuwa shahidi wa kuthibitisha taarifa zozote za kwenye Rejesta, suala lililo kwenye Rejesta au nyaraka nyingine yoyote isipokuwa kwa sababu au amri mahsusi.

(f) Kusitishwa, Kufutwa na Utangazaji

Kusitisha
matumizi ya cheti

43. Bodi inaweza kutoa onyo, kukemea au kuamuru mthamini aliyesajiliwa azuiwe kutumia cheti baada ya Bodi kufanya uchunguzi na mthamini-

- (a) akapatikana na hatia ya kukiuka maadili;
- (b) akashindwa kukidhi masharti kuhusu elimu ya kujiendeleza kama ilivyoainishwa na Bodi; au
- (c) ameshindwa kutimiza masharti na vigezo vya kumwezesha kuwa na cheti.

Kufutwa kwa
cheti

44.- (1) Bodi inaweza kufuta cheti cha usajili wa mthamini endapo -

- (a) mthamini ameomba jina lake liondolewe kwenye Daftari;
- (b) kipindi kilichobainishwa kwa ajili ya usajili wa mthamini au kipindi cha kazi aliyokuwa anaifanya kimemalizika;
- (c) mthamini atapatikana na hatia ya kosa la jinai linalohusiana na rushwa, ukwepaji kodi au kosa lingine linalofanana na hilo na kuhukumiwa adhabu ya kifungu cha miezi sita au zaidi;

- (d) mthamini atatamkwa na mahakama yenye mamlaka au sheria yoyote kwamba amefilisika;
- (e) mthamini ametenda kosa la kimaadili kama itakavyoamuliwa na Bodi;
- (f) kwa mujibu wa maoni ya tabibu, mthamini hawezi kuendelea kufanya kazi ya uthamini; au
- (g) mthamini amefariki.

(2) Isipokuwa kama mtu aliyesajiliwa amefariki au ameomba cheti chake kifutwe, cheti hakitafutwa mpaka Msajili atakapompatia mthamini huyo taarifa ya siku thelathini akimtaka atoe sababu ni kwa nini cheti chake kisifutwe.

(3) Kufutwa kwa cheti cha uthamini kutakuwa ni ushahidi kwamba mthamini huyo hajasajiliwa.

(4) Mthamini ambaye hataridhika na uamuzi wa Bodi wa kusimamisha au kufuta cheti anaweza, ndani ya siku thelathini kuanzia tarehe ya uamuzi huo, kukata rufaa kwa Waziri, na Waziri ataamua rufaa hiyo ndani ya siku thelathini.

Uchapishaji wa taarifa ya kusitisha matumizi au kufutwa kwa cheti

45.-(1) Endapo cheti cha uthamini kitafutwa au kusitishwa, Msajili atahakikisha taarifa hiyo imeingizwa kwenye rejesta na kuchapishwa katika Gazeti la Serikali.

(2) Pale ambapo uamuzi wa kusitisha matumizi ya cheti au kufuta cheti utaondolewa, Msajili atahakikisha taarifa hiyo imeingizwa kwenye rejesta na kutangazwa katika *Gazeti la Serikali*.

Kutangazwa kutakuwa ni ushahidi wa umiliki wa cheti cha uthamini

46.(1) orodha yoyote iliyotangazwa na Msajili katika *Gazeti la Serikali* yenye majina ya wathamini waliosajiliwa ambao wana vyeti kwa mwaka huo, mpaka itakapothibitika vinginevyo, itachukuliwa kwamba kila mtu aliyeorodheshwa kama mthamini aliyesajiliwa anamiliki cheti cha usajili kwa mwaka huo.

(2) Jina ambalo halitakuwemo kwenye orodha hiyo iliyochapishwa, mpaka itakapothibitika vinginevyo,

itakuwa ni ushahidhi kwamba mtu huyo siyo mthamini aliyesajiliwa kwa mwaka huo, lakini nakala ya rejesta iliyothibitishwa kwamba ni nakala halisi yenye jina la mtu huyo itakuwa ni ushahidi wa taarifa zilizoko kwenye nakala hiyo.

**SEHEMU YA TANO
MWONGOZO KUHUSU UFANYAJI WA TATHMINI**

Mwongozo
kuhusu ufanyaji
wa thathmini

47. Kila mthamini aliyesajiliwa au mtu anayefanya shughuli za uthamini, anapaswa kuzingatia mwongozo wa uthamini ulioainishwa katika sehemu hii pamoja na kanuni zilizotungwa chini ya Sheria hii.

Aina za uthamini

48. Kwa madhumuni ya Sheria hii, aina za uthamini zitakuwa-

- (a) uthamini kwa mujibu wa sheria, ambao unasimamiwa na sheria mahsusi au ambao maelekezo ya kuufanya au utaratibu wa kuufanya umetokana na masharti ya kisheria;
- (b) uthamini usio wa kisheria, ambao unatokana na matakwa ya soko au mahitaji mahsusi na ambao hausimamiwi na sheria.

Madhumuni ya
kufanya uthamini

49.-(1) Kila mthamini aliyesajiliwa atabainisha kwenye ripoti ya uthamini sababu za kufanya uthamini kwa mujibu wa maelekezo aliyopewa.

(2) Ufanyaji wa tathmini utakuwa ni kwa madhumuni yafuatayo:

- (a) ukadiriaji wa vigezo;
- (b) ulipaji fidia;
- (c) tathmini ya kodi ya ardhi;
- (d) uthibitisho wa wosia na usimamizi wa mirathi;
- (e) kodi ya ongezeko la thamani;
- (f) mauzo au manunuzi;
- (g) mikopo;
- (h) tathmini ya kodi ya nyumba;

- (i) taarifa za fedha;
- (j) bima;
- (k) uwekezaji;
- (l) soko la hisa;
- (m) thamani ya soko;
- (n) uwekaji dhamana; na
- (o) dhumuni lingine lolote ambalo Bodi itaamua.

Vigezo na njia ya kufanya uthamini

50.-(1) Wakati wa kufanya uthamini na uandaaji wa taarifa ya uthamini, mthamini aliyesajiliwa ataeleza vigezi na njia aliyoitumia kufanya tathmini na dhana yoyote aliyoitumia kufanya thamani.

(2) Kwa madhumuni ya kifungu hiki, vigezo vya uthamini vitajumuisha-

- (a) soko;
- (b) gharama; na
- (c) mapato.

(3) Iwapo mthamini alizingatia dhana yoyote ya ziada, aidha kwa maoni yake mwenyewe au kwa maelekezo ya mteja wake, mthamini atapaswa kueleza kwa maandishi dhana hiyo ya ziada na sababu zake.

Njia za kufanya uthamini

51.-(1) Wakati wa kufanya uthamini, mthamini aliyesajiliwa atatumia njia sahihi za kufanya uthamini na zitajumuisha-

- (a) njia ya ulinganifu wa soko;
- (b) njia ya kubadilisha gharama au njia ya jaribio la ukandarasi;
- (c) njia ya mapato au njia ya uwekezaji;
- (d) njia ya faida; na
- (e) njia ya kuthamini masazo.

(2) Bila kujali kifungu kidogo cha (1), wakati njia nyingine au utofautishaji unapotumika, mbinu hizo zitafafanuliwa, na data zilizotumika wakati wa kufanya uthamini zitathibitishwa.

Uhalali wa uthamini

52. Uthamini na taarifa ya uthamini iliyoandaliwa chini ya Sheria hii itakuwa halali kwa muda ambao Waziri atabainisha.

Tarehe ya
uthamini na muda
wa ukomo

53.- (1) Waziri anaweza kubainisha tarehe ya uthamini na muda wa ukomo wa mashauri yanayotokana na uthamini uliofanywa chini ya Sheria hii.

(2) Kwa madhumuni ya kifungu hiki "tarehe ya uthamini " maana yake ni tarehe ya kuanza kufanya uthamini.

Miongozo

54. Ndani ya miezi sita baada ya kuanza kutumika kwa Sheria hii, na baada ya Bodi kutoa mapendekezo, Waziri ataandaa na kutangaza kwenye *Gazeti la Serikali* miongozo kuhusu uthamini.

Kuingia kwenye
ardhi, majengo,
nk

55.-(1) Mthamini aliyesajiliwa:

(a) endapo ni muhimu kwa madhumuni ya kutekeleza majukumu yake chini ya sheria hii, anaweza kuingia katika ardhi yoyote, jengo au eneo kwa wakati muafaka na kufanya ukaguzi na hatawajibika kutokana na kuingia bila ridhaa;

(b) anaweza kumuuliza kwa mdomo au kwa maandishi mmiliki au wakala wake au mtumishi katika ardhi hiyo, jengo au eneo, swali lolote litakalomwezesha kufanya kazi yake kitaalam chini ya Sheria hii; au

(c) kukagua nyaraka yoyote kutoka kwa mtu yeyote kwa madhumuni ya kutekeleza majukumu yake chini ya Sheria hii.

(2) Mtu yeyote ambaye, baada ya kupewa taarifa kuhusu nia ya mthamini aliyesajiliwa ya kuingia na kukagua ardhi, jengo au eneo, au nia ya kuuliza maswali au kukagua nyaraka zinazohusika na utendaji kazi wa mthamini chini ya Sheria hii-

(a) anakataa au anashindwa kumruhusu kuingia au kukagua;

(b) anakataa au kwa makusidi anakwepa kujibu swali kwa ufahamu wake aidha kwa mdomo au kwa maandishi kutokana na namna muuliza swali alivouliza;

(c) kwa makusudi anasema uongo wakati akijibu

swali; au

- (d) anakataa kuruhusu vitabu husika au nyaraka zisikaguliwe au nakala ya kitabu au nyaraka isichukuliwe,

atakuwa ametenda kosa na akipatikana na hatia, atatozwa faini isiyopungua shilingi milioni moja na isiyozidi shilingi milioni tatu, au kifungo kwa kipindi kisichopungua miezi kumi na mbili na kisichozidi miezi ishirini na nne au vyote faini na kifungo.

Uwasilishaji wa taarifa muhimu

56.- (1) Mthmini anaweza kumtaka mtu yeyote kuwasilisha kwake nyaraka zozote za muhimu za kumwezesha kutekeleza majukumu yake chini ya Sheria hii.

(2) taarifa zinazohitajika chini ya kifungo cha (1) zinaweza kujumuisha-

- (a) maelezo kuhusu mauzo, manunuzi, matokeo ya minada na zabuni, ukodishaji na upangishaji; na
(b) taarifa nyingine ambazo mthamini anadhani ni muhimu kwa ajili ya utekelezaji wa majukumu yake chini ya Sheria hii.

(3) Mtu yeyote ambaye anakataa kuwasilisha taarifa chini ya kifungo hiki ndani ya muda uliowekwa, au anawasilisha taarifa ya uongo kwa makusudi, atakuwa ametenda kosa na akipatikana na hatia atatozwa faini isiyopungua shilingi milioni moja na isiyozidi shilingi milioni tatu au kifungo kwa kipindi kisichopungua miezi kumi na mbili na kisichozidi miezi ishirini na nne au vyote kwa pamoja, faini na kifungo.

Mthamini kutokuwa wakala wa mthamini asiyesajiliwa

57. Mthamini aliyesajiliwa ambaye anakuwa wakala wa mthamini asiyesajiliwa na akafanya uthamini, na ambaye-

- (a) anaruhusu jina lake litumiwe na mthamini asiyesajiliwa;
(b) anafanya kitendo kingine chochote kumwezesha mtu asiyesajiliwa kufanya kazi kama mthamini aliyesajiliwa;

(c) kwa njia yoyote anamsaidia mthamini asiyesajiliwa katika jambo lolote akijua kwamba mtu huyo anakiuka au ana nia ya kukiuka Sheria hii, atakuwa ametenda kosa na atachukuliwa hatua za kinidhamu kwa namna Bodi itakavyoamua.

**SEHEMU YA SITA
MASHARTI KUHUSU FEDHA**

Vyanzo vya fedha

58.-(1) Vyanzo vya fedha za Bodi vitajumuisha-

- (a) kiasi chochote cha fedha ambacho kikitatengwa na Bunge kwa ajili ya Bodi;
- (b) kiasi chochote cha fedha ambacho Bodi inaweza kupokea kama msaada kutoka katika shirika lolote;
- (c) kiasi chochote cha fedha ambacho Bodi inaweza kukopa kwa madhumuni ya Bodi;
- (d) kiasi chochote cha fedha ambacho, kwa namna yoyote, kitalipwa au kuwekwa kwenye Bodi;
- (e) michango kutoka kwa wathamini kama itakavyoamuliwa na Bodi;

(2) Bodi inaweza, baada ya kupata idhini ya Waziri na kwa kushauriana na Waziri mwenye dhamana na masuala ya fedha, kuwekeza fedha zozote katika namna ambayo Bodi inaona inafaa.

Hesabu

59.-(1) Bodi itatunza kumbukumbu sahihi za vitabu vya hesabu.

(2) Kwa kuzingatia maelekezo yoyote yaliyotolewa na Bodi, Msajili ataandaa maelezo kuhusiana na kila mwaka wa fedha, na si zaidi ya miezi mitatu baada ya kufungwa kwa mwaka wa fedha, ataandaa taarifa ambayo itajumuisha taarifa ya utekelezaji wa shughuli za Bodi kwa kipindi cha mwaka huo wa fedha.

(3) Taarifa iliyoandaliwa chini ya kifungu

kidogo cha (2) zitakuwa na-

- (a) taarifa ya hali ya Bodi kifedha;
- (b) taarifa kuhusu uimara wa Bodi kifedha;
- (c) taarifa ya mtiririko wa mapato;
- (d) taarifa kuhusu mabadiliko ya mitaji; na
- (e) maelezo ya taarifa ya fedha.

Ukaguzi

60.-(1) Hesabu za Bodi za kila mwaka wa fedha zitakaguliwa na Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali au Mkaguzi atakayeteuliwa na Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali.

(2) Ndani ya miezi mitatu baada ya kufunga mahesabu ya mwaka wa fedha, Bodi itawasilisha kwa Mkaguzi na Mdhibiti Mkuu wa Hesabu za Serikali taarifa ya hesabu kama ilivyoelezwa katika kifungu cha 59 cha Sheria hii, kwa ajili ya ukaguzi.

(3) Mapema iwezekanavyo, isipokuwa si zaidi ya miezi miwili baada ya kupokea taarifa ya ukaguzi kutoka kwa Mkaguzi na Mdhibiti Mkuu wa Hesabu za Serikali, Bodi itawasilisha kwa Waziri maelezo ya taarifa ya fedha yaliyokaguliwa pamoja na taarifa ya Mkaguzi na Mdhibiti Mkuu wa Hesabu za Serikali kuhusiana na maelezo hayo.

Taarifa ya Mwaka
ya Utekelezaji

61. Bodi itandaa na kuwasilisha kwa Waziri ndani ya miezi mitatu baada ya kufungwa kwa kila mwaka wa fedha, taarifa ya mwaka juu ya utendaji wa Bodi kwa mwaka huo wa fedha na Waziriatawasilisha nakala ya taarifa hiyo Bungeni.

SEHEMU YA SABA MASHARTI YA JUMLA

Marufuku kwa
mthamini
asiyesajiliwa
kutumia jina au
kufanya kazi za
uthamini

62.- (1) Mtu yeyote ambaye hajasajiliwa au kuorodheshwa chini ya Sheria hii -

- (a) akifanya kazi kama mtu aliyesajiliwa au kuorodheshwa;
- (b) akitumia jina "mthamini aliyesajiliwa", "mthamini aliyeorodheshwa" au jina jingine,

cheo au maelezo yanayoashiria kwamba mtu huyo ni mthamini aliyesajiliwa;

- (c) anajitambulisha aidha moja kwa moja au vinginevyo, kama ni mthamini aliyesajiliwa au kuorodheshwa,

atakuwa anatenda kosa na akipatikana na hatia atalipa faini isiyozidi shilingi milioni tano au kifungo kisichozidi miaka miwili au vyote.

(2) Kifungu kidogo cha (1) (a) haitatumika kwa-

(a) afisa yeyote wa umma anayeandaa taarifa wakati akitekeleza majukumu yake ya ajira; au

(b) mtu yeyote aliyeajiriwa na mthamini aliyesajiliwa na ambaye anafanya kazi zilizoko ndani ya wigo wa ajira hiyo.

Kuthibitisha ripoti ya uthamini

63.- (1) Mthamini aliyesajiliwa anapofanya uthamini ataweka lakiri kwenye ripoti hiyo ambao una jina lake, nambari ya usajili, anuani na tarehe, au jina la kampuni ambalo yeye ni mbia au mkurugenzi.

(2) Endapo ripoti ya uthamini haitasainiwa kwa mujibu wa kifungu kidogo cha (1), ripoti hiyo itakuwa ni batili.

(3) Mthamini aliyesajiliwa anaposaini ripoti ya uthamini iliyoandaliwa na mthamini ambaye hajasajiliwa itachukuliwa kuwa amekubali kuwajibika na ripoti hiyo pamoja na yaliyomo kwenye ripoti.

Ada ya uthamini

64.-(1) Ndani ya mwaka mmoja tangu kuanza kutumika kwa Sheria hii, Bodi itatengeneza kanuni zitakazobainisha ada ya uthamini wa mali kuhusiana na huduma za uthamini zinazotolewa na wathamini waliosajiliwa waliopo kwenye sekta binafsi.

(2) Hakuna mthamini aliyesajiliwa atakayedai au kukubali malipo ya ada au malipo mengine kuhusiana na huduma ya uthamini ambayo ni pungufu zaidi ya kiwango kilichobainishwa kwenye kifungu kidogo cha (1).

Makosa
yanaofanywa na
shirika

65. Pale kosa linapofanywa na shirika au na mkurugenzi yeyote, afisa au mtumishi wa shirika kwa namna inayoweza kutathminiwa kuashiria kwamba shirika linakidhi au linatambulika kisheria kwamba linakidhi vigezo vya kufanya kazi kama mthamini aliyesajiliwa wakati sivyo, shirika hilo litakuwa limetenda kosa na likipatikana na hatia litawajibika kulipa faini isiyozidi shilingi milioni hamsini.

Uandaaji wa
kanuni za maadili

66.-(1) Ili kufanya kazi ya uthamini kwa uaminifu au ili kuzingatia kanuni za utendaji bora katika kufanya tahmini, ndani ya miezi kumi na mbili baada ya kuanza kutumika kwa Sheria hii, Bodi itatengeneza na kupitisha kanuni za maadili kwa ajili ya wathamini waliosajiliwa na wathamini walioorodheshwa.

(2) Kanuni za maadili zilizotengenezwa chini ya kifungu hiki zitatangazwa katika *Gazeti la Serikali* na zitakuwa na nguvu ya kisheria.

Makosa

67. Mtu yeyote ambaye:

- (a) kwa udanganyifu ataingiza, atasababisa au ataruhusu kuingizwa taarifa yoyote ya uongo au isiyo sahihi katika Rejesta au nakala yoyote ya Rejesta;
- (b) ataingiza au atajaribu kuingiza jina lolote au taarifa nyingine aidha kwa ajili yake au kwa ajili ya mtu mwingine yeyote;
- (c) atajipatia au atajaribu kujipatia leseni ya kufanya uthamini kwa njia za udanganyifu;
- (d) anafhamu kwamba hajafuzu kufanya uthamini, akifanya au akijaribu kufanya uthamini chini ya Sheria hii;
- (e) anatoa taarifa yoyote ambayo ni ya uongo au inayopotosha kwa nia ya kujipatia manufaa, aweze kuingia mkataba au kupewa upendeleo chini ya Sheria hii;
- (f) anaghushi au akijua kwamba nyaraka imeghushiwa, anatoa nyaraka yoyote inayodhaniwa kuwa ni cheti, risiti, idhini au

nyaraka yoyote iliyotolewa chini ya Sheria hii;

- (g) anakifanya kuwa ni mtu aliyesajiliwa au anayedhaniwa kuwa amesajiliwa chini ya Sheria hii;
- (h) baada ya kupewa wito, atakataa au anashindwa bila sababu ya msingi, kuhuduria kwenye kikao cha uchunguzi cha Bodi chini ya Sheria hii;
- (i) anamzuia au kumkataza mjumbe yeyote wa Bodi kutekeleza mamlaka au majukumu yake chini ya Sheria hii;

anatenda kosa la jinai na akipatikana na hatia atawajibika kulipa faini isiyopungua shilingi milioni tano au kifungo kwa kipindi kisichopungua miaka miwili au vyote faini na kifungo.

Uzembe wa
msajili
aliyesajiliwa

68. Mthmini yeyote aliyesajiliwa ambaye ripoti yake itakuwa na maelezo au taarifa yenye makisio ya juu au ya chini, na ripoti hiyo ikapitishwa au ikaidhinishwa na Mthamini Mkuu, mthamini huyo atawajibika yeye binafsi kwa uzembe wa kitaaluma kutokana na madirio hayo ya juu au ya chini ya maelezo au taarifa hiyo.

Kinga

69. Hakuna jambo au kitu kilichofanywa na mjumbe yeyote wa Bodi au wa Kamati, wafanyakazi wa Bodi, mthamini aliyesajiliwa au aliyeorodheshwa au mtu yeyote aliyepewa mamlaka ya kutekeleza majukumu chini ya Sheria hii, endapo kimefanyika kwa nia njema katika utekelezaji wa majukumu yake chini ya Sheria hii, kitamfanya mjumbe au mtu huyo mwingine awajibike binafsi kwa jambo au kitu kilichofanyika.

Kanuni

70.- (1) Waziri baada ya kushauriana na Bodi, anaweza kutunga kanuni kwa ajili ya utekelezaji bora wa masharti ya Sheria hii.

(2) Bila kuathiri masharti ya ujumla ya kifungo kidogo cha (1), Waziri anaweza kutunga kanuni zitakazobainisha-

- (a) utaratibu wa usajili na uorodheshaji chini ya Sheria hii;
- (b) utaratibu wa kusajili kampuni za uthamini chini ya Sheria hii;
- (c) ada na malipo mengine yanayopaswa kulipwa kuhusiana na huduma za uthamini zinazotolewa na wathamini wa Serikali chini ya Sheria hii;
- (d) utaratibu wa kuhakiki uthamini chini ya Sheria hii;
- (e) namna ya kutathmini viwango vya mazao na kuandaa jedwali ya viwango vya mazao;
- (f) namna ya kutathmini viwango va mazao na kuandaa thamani ya ardhi;
- (g) fomu zitakazotumiwa wakati wa kufanya uthamini wa aina mbalimbali;
- (h) utaratibu wa kutathmini fidia na uthamini;
- (i) namna ya ukokotoaji wa vitu vinavyofidiwa;
- (j) kanuni bora za usimamizi, ikijumuisha miongozo ya ubora wa huduma na ujuzi wa watathmini;
- (k) namna na taratibu za kushughulikia malalamiko na rufaa zinazofunguliwa chini ya Sheria hii;
- (l) kanuni za vipimo;
- (m) jambo jingine lolote litakawezesha utekelezaji bora wa Sheria hii.

Kanuni za Bodi

71. Bodi inaweza kuandaa kanuni zitakazobainisha-

- (a) viwango na miongozo ya kufanya tathmini;
- (b) muundo wa ripoti ya uthamini;
- (c) masuala yanayohusu usajili wa wathamini;
- (d) masuala yanayohusu elimu ya kujiendeleza; na

- (e) jambo au kitu kingine chochote ambacho Bodi inaona ni muhimu katika kutekeleza masharti ya Sheria hii.

Masharti yanayoendelea kutumika na masharti ya mpito

72.-(1) Wathamini waliosajiliwa chini ya Sheria ya Baraza la Taifa la Usajili wa Wapimaji wa Ardhi na ambao leseni zao hazijamalizika muda, wataendelea kufanya kazi za uthamini kama vile wamesajiliwa chini ya Sheria hii mpaka hapo leseni zao zitakapomalizika muda.

(2) Mthamini aliyesajiliwa na kupewa leseni chini ya Sheria ya Baraza la Taifa la Usajili wa Wapimaji wa Ardhi, ndani ya miezi mitatu kabla ya muda wa leseni yake kumalizika, atapaswa kuomba kwa Bodi kusajiliwa chini ya Sheria hii.

(3) Baada ya kuanza kutumika kwa Sheria hii hakuna mthamini atakayesajiliwa chini ya Sheria ya Baraza la Taifa la Wapima Ardhi.

Marekebisho ya sheria mbalimbali

73. Kwa madhumuni ya kuleta uwiano wa sheria mbalimbali na Sheria hii, sheria zilizoainishwa kwenye Jedwali la Pili la Sheria hii zinafanyiwa marekebisho katika namna inayoainishwa kwenye Jedwali la Pili.

JEDWALI LA KWANZA

(Limetengenezwa chini ya kifungu cha 12(6))

UENDESHAJI WA SHUGHULI ZA BODI

Nafasi kuwa wazi

1. Nafasi ya mjumbe itakuwa wazi endapo-
 - (a) uteuzi wake utatenguliwa;
 - (b) atajiuzulu; au
 - (c) atafariki.
- (2) Mjumbe anaweza kujiuzulu wakati wowote kwa kutoa notisi ya maandishi kwa Waziri na tangu

tarehe hiyo iliyoainishwa kwenye notisi, au iwapo hakuna tarehe iliyotajwa kwenye notisi, kuanzia tarehe ambayo notisi ilipopelekwa na Waziri, mjumbe atakoma kuwa mjumbe.

Makamu
Mwenyekiti

2. Bodi itamchagua mmoja wa wajumbe wake kuwa Makamu-Mwenyekiti na mjumbe yeyote atakayechaguliwa kuwa Makamu-Mwenyekiti, ataendelea kushika madaraka ya Makamu-Mwenyekiti kwa muda wa miaka mitatu na anaweza kuchaguliwa tena baada ya muda huo kuisha, kwa kuzingatia kigezo kuwa mjumbe huyo anaendelea kuwa mjumbe.

Muda wa uteuzi

3.-(1) Kila mjumbe wa Bodi ataendelea kuwa madarakani kwa kipindi kitakachoainishwa kwente barua ya uteuzi, na endapo kipindi hicho hakijabainishwa, ataendelea kuwa mjumbe kwa kipindi cha miaka mitatu kuanzia tarehe ya uteuzi wake na anaweza kuteuliwa tena kwa kipindi kingine kimoja.

(2) Bila kujali aya ndogo ya (1), mtu ambaye ni mjumbe kutokana na kushika madaraka katika ofisi nyingine yoyote atakoma kuwa mjumbe baada ya kuacha kushika madaraka katika ofisi ambayo kwa wadhifa huo amekuwa mjumbe.

Kufuta uteuzi

4. Pale ambapo mjumbe wa Bodi anashindwa kuhudhuria vikao vitatu vya Bodi mfululizo bila sababu za msingi, Bodi itaishauri mamlaka ya uteuzi kuhusu suala hili na mamlaka ya uteuzi inaweza kufuta uteuzi wa mjumbe huyo na kuteua mjumbe mpya badala yake.

Nafasi kuwa
wazi

5. Iwapo mjumbe anakoma kuwa mjumbe kwa sababu yoyote kabla ya muda wake kumalizika, mamlaka ya uteuzi inaweza kumteua mtu mwingine kuziba nafasi iliyoachwa wazi na mtu huyo aliyeteuliwa takaa madarakani kwa kipindi kilichosalia cha mjumbe aliyemtangulia.

Ukomo wa

6. Iwapo mjumbe yeyote wa Bodi anakoma kuwa

ujumbe mjumbe kwa sababu ya kujiuzulu au kifo au kwa ya kushindwa kutekeleza majukumu yake kama mjumbe kwa sababu ya kutokuwepo ndani ya Jamhuri ya Muungano au kwa sababu ya udhaifu wa mwili au akili au iwapo mamlaka ya uteuzi inafuta uteuzi wake chini ya aya ya 2, mamlaka ya uteuzi inaweza kuteua mjumbe mwingine badala yake na mjumbe atakayeteuliwa kwa mujibu wa Jedwali hili atakuwepo madarakani kwa muda uliobakia wa mjumbe aliyemtangulia.

Mamlaka ya Mwenyekiti na Makamu Mwenyekiti

7.-(1) Mwenyekiti ataongoza mikutano yote ya Bodi.

(2) Iwapo katika mkutano wowote wa Bodi Mwenyekiti hatakuwepo, Makamu-Mwenyekiti ataongoza kikao hicho.

(3) Iwapo Mwenyekiti na Makamu-Mwenyekiti hawapo katika mkutano wowote wa Bodi, wajumbe waliopo, watamchagua Mwenyekiti wa muda kutoka miongoni mwao kuongoza kikao.

(4) Mwenyekiti, Makamu-Mwenyekiti au Mwenyekiti wa muda anayeongoza mkutano wowote wa Bodi, atakuwa na haki ya kupiga kura, na inapotokea mgongano wa kura, atakuwa na kura ya turufu mbali na kura yake ya kawaida.

Mikutano na taratibu za Bodi

8.-(1) Mkutano wa kawaida cha Bodi utaitishwa na Mwenyekiti na taarifa inayotaja sehemu, tarehe na muda wa kikao itatumwa kwa kila mjumbe mahala pake pa kawaida pa kazi au makazi kwa siku zisizopungua siku kumi na nne kabla ya tarehe ya kikao hicho.

(2) Bodi itafanya mkutano wa kawaida minne kwa mwaka, lakini Mwenyekiti anaweza akaitisha kikao cha dharura endapo hitaji la kufanya hivyo litajitokeza.

(3) Mwenyekiti wa Bodi anaweza kumwalika mtu yeyote ambaye si mjumbe kushiriki katika mjadala wa Bodi na mtu huyo hatakuwa na haki ya kupiga kura.

Akidi

9. Akidi katika mikutano ya Bodi itakuwa ni mbili ya tatu ya wajumbe wote.

Uamuzi kwa njia ya maandishi

10.-(1) Bila kujali aya ya 7, Mwenyekiti anaweza kuelekeza uamuzi kufanywa na Bodi bila kufanya mkutano kwa kugawa nakala ya suala lililo mezani kwa wajumbe wote ili watoe maoni yao kwa maandishi.

(2) Mjumbe yeyote atakuwa na haki ya kutaka uamuzi wowote kuahirishwa na uamuzi huo kujadiliwa kwenye mkutano wa Bodi.

Muhtasari wa mkutano

11. Muhtasari wa kila kikao cha Bodi utatunzwa na utathibitishwa na Bodi katika kikao kinachofuata na kusainiwa na Mwenyekiti wa kikao hicho.

Nafasi kuwa wazi na kasoro hazitabatilisha shughulu za Bodi

12. Uhalali wa jambo lolote au shughuli ya Bodi haitaathiriwa kutokana na uwepo wa nafasi iliyo wazi katika idadi ya wajumbe au kasoro zozote katika uteuzi wa mjumbe yeyote.

Amri, maelekezo n.k. ya Bodi

13. Amri zote, maelekezo, taarifa au nyaraka nyingine zilizotengenezwa au kutolewa kwa niaba ya Bodi zitasainiwa na-

(a) Mwenyekiti au Makamu Mwenyekiti kama itakavyokuwa; na

(b) Msajili.

Uthibitisho wa nyaraka

14. Nyaraka yoyote inayodhaniwa kuwa imetolewa kwa idhini ya Mwenyekiti, Makamu Mwenyekiti au Msajili kuhusiana na azimio lolote la Bodi au inayodhaniwa kuwa imetolewa kwa niaba ya Bodi, itapokelewa kwenye mahakama zote au mabaraza au vyombo vingine vilivyoidhinishwa kupokea ushahidi na, isipokuwa kama itaoneshwa vinginevyo, itachukuliwa, bila uthibitisho wa ziada, kuwa ushahidi unaojitosheleza wa kilichomo kwenye nyaraka husika.

Uhalali wa matumizi ya lakiri

15. Lakiri ya Bodi haitawekwa kwenye hati, nyaraka na miongozo mingine isipokuwa mbele ya Mwenyekiti na Msajili, au Mwenyekiti au Msajili na mjumbe mwingine mmoja ambaye atateuliwa na Bodi kwa ajili hiyo.

Marupurupu ya
wajumbe wa Bodi

16. Mjumbe wa Bodi na Sekretarieti atastahili kulipwa marupurupu au posho kutoka kwenye fedha za Bodi kama Waziri anavyoweza, baada ya kushauriana na Msajili wa Hazina, kuamua.

Uthibitishaji wa
nyaraka

17. Nyaraka zozote za Bodi, mbali na nyaraka nyingine zinazohitajika kisheria kuwekewa lakiri na maamuzi yote ya Bodi, vinaweza kuthibitishwa kwa kusainiwa na Msajili au ofisa mwingine aliyeidhinishwa na Msajili kwa niaba yake.

Bodi kusimamia
shughuli zake

18. Kwa kuzingatia masharti ya Jedwali hili Bodi inaweza kujiwekea utaratibu wa kuendesha mwenendo wa shughuli zake.

JEDWALI LA PILI

(Limetengenezwa chini ya kifungu cha 73)

MAREKEBISHO YATOKANAYO

Sheria zilizoainishwa zinafanyiwa marekebisho kama inavyoainishwa hapa chini:

Marekebisho
ya Sura ya 270

1. Sheria ya Usajili wa Wapima Ardhi inafanyiwa marekebisho-

(a) ya ujumla kwa kufuta maneno “na uchumi wa ardhi” popote yanapojitokeza kwenye Sheria hiyo;

(b) kwenye kifungu cha 3, kwa kufuta tafsiri ya neno “mpima ardhi” na kuweka badala yake tafsiri ifuatayo:

““mpima ardhi” maana yake ni mtu aliyefunzwa, mwenye sifa au mwenye weledi na uzoefu wa kutosha utakaomwezesha kufanya shughuli za usomaji wa kina na kutumia vipimo

sawia na data nyinginezo katika sehemu ya uso wa dunia na kujua, kwa kutumia vipimo, muundo wake, ukubwa, mpangilio wa kontua na hali kwa madhumuni ya-

- (a) kuainisha mipaka ya eneo na kukusanya data kwa ajili ya usajili wa hati ya ardhi;
- (b) kutoa mwongozo wa kimfumo kwa ajili ya upimaji ramani;
- (c) kuonesha katika ramani muonekano halisi wa dunia au sehemu yake;
- (d) kutengeneza data kwa ajili ya mipango inayohitajika kwa ajili ya shughuli za ujenzi;
- (e) kuonesha takwimu na data nyingine kwenye ramani za wataalam, wakiwemo mtathmini na mchumi ardhi.”

Marekebisho ya
Sura ya 113

2. Sheria ya Ardhi inafanyiwa marekebisho ya jumla kwa kufuta maneno “mthamini mwenye sifa” popote yanapojitokeza kwenye Sheria hiyo na kuweka badala yake maneno “mthamini aliyesajiliwa”.

Marekebisho ya
Sura ya 289

3. Sheria ya Tozo za Mamlaka za Miji inafanyiwa marekebisho-

- (a) ya jumla kwa kufuta maneno “mthamini mwenye sifa” popote yanapojitokeza kwenye Sheria hiyo na kuweka badala yake maneno “mthamini aliyesajiliwa”; na
- (b) kwenye kifungu cha 3, kwa kufuta tafsiri ya neno “mthamini mpima ardhi”.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kutungwa kwa Sheria ya Uthamini na Usajili wa Wathamini, ya mwaka 2016 kwa lengo la kusimamia taaluma na shughuli za uthamini Tanzania Bara. Hii ni kutokana na kwamba kwa takriban miongo mitatu, shughuli za uthamini zimekuwa zikitekelezwa chini ya usimamizi wa sheria mbalimbali zikiwemo Sheria ya Ardhi, Sura ya 113, Sheria ya Tozo za Mamlaka za Miji, Sura ya 289, Sheria ya Utwaaji Ardhi, Sura ya 118, Sheria ya Madini, Sura ya 123, Sheria ya Kodi ya Mapato, Sura ya 332 na Sheria ya Usajili wa Wapima, Sura ya 270.

Kutokuwepo kwa sheria moja mahsusi na inayojitosheleza kuhusu masuala ya uthamini na shughuli za uthamini nchini kumesababisha changamoto kubwa sana katika jamii. Baadhi ya changamoto hizo ni pamoja kuongezeka kwa kasi kwa migogoro ya ardhi nchini kunakosababishwa na kazi za uthamini kufanywa na wathamini hewa; na kuongezeka kwa idadi kubwa ya wathamini wasio na sifa stahiki za kitaaluma ambao mara nyingi wamekuwa wakitekeleza kazi mbalimbali za uthamini. Changamoto zote hizi zimekuwa zikisababisha ucheleweshwaji wa fidia, kuongezeka kwa thamani ya fidia, gharama za miradi na ucheleweshwaji wa utekelezaji wa miradi au uwekezaji kunakosababishwa na uthamini uliofanyika chini ya kiwango au bila ya kuzingatia aina, misingi na madhumuni ya uthamini husika.

Kutokana na hali hiyo, Muswada huu unapendekeza kutungwa Sheria moja mahsusi ambayo itaziba ombwe lililopo sasa na kutoa suluhisho la changamoto zilizoainishwa kwenye aya zilizotangulia na kuhakikisha kwamba matumizi ya ardhi nchini yanaleta athari chanya kwa maslahi ya watumiaji wote wa ardhi na Taifa kwa ujumla.

Kwa madhumuni ya kukidhi malengo yaliyokusudiwa, Muswada umegawanyika katika Sehemu Kuu Saba.

Sehemu ya Kwanza ya Muswada inahusu masharti ya awali yakiwemo jina la Sheria inayopendekezwa, matumizi yake pamoja na tafsiri za maneno na misamiati iliyotumika katika Muswada.

Sehemu ya Pili inahusu mamlaka na majukumu ya Mthamini Mkuu ndani ya muundo wa Wizara yenye dhamana na masuala ya ardhi. Aidha, Sehemu hii inapendekeza masharti kuhusu uteuzi wa Mthamini Mkuu, Wathamini Wakuu Wasaidizi, Wathamini wa Serikali na Wathamini Waidhinishwa. Muundo huu wa Idara ya Uthamini utahakikisha kwamba Wathamini Wakuu Wasaidizi watakuwepo katika kila kanda na watakuwa ni wasimamizi wa shughuli za uthamini zinazofanywa na Wathamini wa Serikali na wathamini waidhinishwa katika mamlaka za serikali za mitaa, Mikoa na Wilaya.

Sehemu ya Tatu inapendekeza masharti kuhusu Bodi ya Usajili wa Wathamini ambapo masuala yanayohusu uanzishwaji wa Bodi, muundo, mamlaka na kazi za Bodi yamefafanuliwa. Aidha, Sehemu hii inapendekeza masharti kuhusu uteuzi wa Msajili ambaye atawajibika kusimamia utekelezaji wa siku kwa siku wa shughuli za Bodi.

Sehemu ya Nne ya Muswada inahusu Usajili na Uorodheshwaji wa wathamini. Katika Sehemu hii, inapendekezwa kwamba usajili wa wathamini ufanyike kwa wathamini wenye angalau shahada ya kwanza katika masuala ya usimamizi wa ardhi na nyumba. Aidha, usajili unapendekezwa kufanyika katika makundi matatu ambayo ni usajili kamili, usajili wa muda na usajili wa mpito. Usajili kamili utatolewa kwa wathamini wenye uzoefu wa angalau miaka mitatu mbali na kuwa na sifa stahiki za kitaaluma. Usajili wa muda utatolewa kwa wathamini ambao si watanania na wanaotoka nje ya Tanzania ambao wanahitaji kutekeleza shughuli mahsusi ya uthamini hapa Tanzania kwa kipindi kisichozidi mwaka mmoja. Usajili wa makampuni ya usajili utafanyika baada ya mthamini husika kupata chdeti chini ya Sheria hii na baada ya kukidhi vigezo vilivyowekwa na Sheria ya Makampuni, Sura ya 212. Mwisho, usajili wa mpito utakuwa ni kwa wahitimu wa masomo ya uthamini na wengineo ambao hawana uzoefu wa angalau miaka mitatu ili waweze kupewa usajili kamili.

Kwa upande mwingine, uorodheshwaji wa wathamini utakuwa ni kwa ajili ya wathamini ambao wana vyeti au diploma katika masuala ya usimamizi wa ardhi na majengo. Wathamini walioorodheshwa au wathamini wasaidizi wataruhusiwa kusaidia kazi za uthamini chini ya usimamizi wa wathamini waliosajiliwa.

Masuala mengine kuhusu kukubali au kukataa maombi ya usajili, uhalali wa cheti, haki na stahili za wathamini waliosajiliwa au walioorodheshwa, Rejesta, ukaguzi wa Rejesta na kusitisha kwa muda au kufutwa kwa cheti cha usajili yamefafanuliwa kwa kina.

Sehemu ya Tano inahusu mwongozo kuhusiana na uendeshaji wa shughuli za uthamini, ambapo masuala yote yanayohusu aina za uthamini, madhumuni, misingi na mbinu za uthamini yamefafanuliwa kwa kina. Aidha, Sehemu hii inapendekeza masharti kuhusu uhalali wa uthamini, muda wa ukomo wa uthamini na masuala mengine yanayohusu kuingia katika ardhi au majengo.

Sehemu ya Sita ya Muswada inahusu masharti kuhusu fedha, ambapo masuala yanayohusu vyanzo vya mapato ya Bodi, hesabu na ukaguzi wa hesabu pamoja na taarifa ya mwaka kuhusu utendaji kazi wa Bodi yameainishwa kwa ufasaha.

Sehemu ya Saba inapendekeza masharti ya jumla. Sehemu hii inahusu masuala ya miiko ya maadili ya kitaaluma kwa wathamini wa Serikali na wathamini waidhinishwa, ada za uthamini, makosa na adhabu, kanuni zitakazotengenezwa na Waziri, kanuni za Bodi na masharti ya mpito nay ale yanayoendelea.

Mwisho, Muswada unapendekeza Majedwali yanayohusu utaratibu wa uendeshaji wa shughuli za Bodi na marekebisho yatokanayo ambapo sheria zote ambazo kwa namna moja au nyingine zitaathirika kutokana na Sheria inayopendekezwa, zinapendekezwa kufanyiwa marekebisho. Sheria hizo ni pamoja na Sheria ya Ardhi, Sura ya 113, Sheria ya Tozo za Mamlaka za Miji, Sura ya 289 na Sheria ya Usajili wa Wapima Ardhi, Sura ya 270.

Dar es Salaam,
10 Mei, 2016

WILLIAM V. LUKUVI
*Waziri wa Ardhi, Nyumba na
Maendeleo ya Makazi*